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LAWS IN FORCE IN THE COLONIES

AS TO

TRESPASS,

AND ALSO AS TO

PRESERVATION OF GAME.

BAYERISCHE STAATS-BIBLIOTHEK MUENCHEN

Presented to both Houses of Parliament by Command of Her Majesty,

MAY, 1871.

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LAWS IN FORCE IN THE COLONIES AS TO TRESPASS,

AND ALSO AS TO THE

PRESERVATION OF GAME.

CIRCULAR DESPATCH addressed by the EARL of KIMBERLEY to the Governors of Colonies.

SIR, Downing Street, 2nd August, 1870.

Her Majesty's Government being desirous of obtaining information as to the laws in force in the Colonies as to Trespass, and also as to the Preservation of Game, I have to request that you will furnish me, as soon as you conveniently can, with copies of any enactments in force in the Colony of [————————] on these subjects accompanying them with any observations which you may think necessary, in order to render such enactments intelligible.

I have, &c.,
(Signed) KIMBERLEY.

The Officer administering
the Government of
[————————]

NORTH AMERICAN COLONIES.

No. 1.

DOMINION OF CANADA.

[Not received.]

BAYERISCHE STAATS-BIBLIOTHEK MUENCHEN

No. 2.

PRINCE EDWARD ISLAND.

COPY of a DESPATCH from the ADMINISTRATOR of the Government to the EARL of KIMBERLEY.

(No. 60.) Prince Edward Island, Government House,
MY LORD, 10th September, 1870.

I have the honour to acknowledge the receipt of your Despatch (Circular) of the 2nd ultimo, requesting me to furnish you with copies of any enactments in force in this

NORTH AMERICAN COLONIES.

Colony relating to Trespass, and also to the Preservation of Game, and I transmit herewith a letter from the Attorney-General, with copies of three Acts, two relating to trespass and one to the preservation of game, stated by that officer to be the only laws now in force in this island on these subjects, and which, in my opinion, require no observations from me necessary to render them intelligible.

I have, &c.,
(Signed) R. HODGSON, Administrator.

The Right Hon. the Earl of Kimberley,
Secretary of State for the Colonies,
&c. &c. &c.

Enclosures in No. 2.

Enclosures in No. 2.

Attorney-General's Office, Charlottetown, Prince Edward Island,
9th September, 1870.

SIR,

I have been furnished with the "Circular" transmitted to you from the Right Honourable the Earl of Kimberley, Secretary of State for the Colonies, requesting to be supplied with the laws relating to Trespass and the Preservation of Game in force in this Colony.

The only Acts in force in this island relating to the above subjects are the following, that is to say, an Act of the 12th Vict. cap. 16, intituled "An Act to consolidate and "amend the several Acts relating to summary Trespasses and to repeal certain Acts "therein mentioned."

An Act of the 24th Victoria, cap. 22, intituled "An Act for the punishment of "persons who shall be guilty of the Trespasses therein mentioned." And an Act of the 27th Victoria, cap. 11, intituled "An Act relating to Partridges or Tree Grouse, and to "repeal certain portions of the several Acts therein mentioned."

I enclose herewith copies of the Acts referred to for the information of the Earl of Kimberley.

I have, &c.
(Signed) DENNIS O. M. REDDIN,
Attorney-General.

Sir Robert Hodgson, Knight,
Administrator of the Government,
&c. &c. &c.

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27 VICTORIA, CAP. 11.

AN ACT relating to Partridges or Tree Grouse, and to repeal certain portions of the several Acts therein mentioned. [*Passed May* 2, 1864.]

Preamble.

WHEREAS the very great destruction of partridges, or tree grouse, in this island has tended to render the same scarce, and if continued, without some further restriction, there is reason to fear that they will be exterminated.

Be it therefore enacted, by the Lieutenant-Governor, Council, and Assembly, as follows:

20 Geo. 3., c. 5, and 21 Geo. 3, c. 11, partially amended.

I. From and after the passing of this Act, so much and such parts of the Act made and passed in the twentieth year of the reign of His late Majesty King George the Third, chapter five, and also so much and such parts of the Act passed in the twenty-first year of the same reign, chapter eleven, as relate to the killing of partridges, shall be and the same are hereby severally repealed.

No partridge, &c., to be killed previous to 1st October, 1865, after then to be protected between 1st Jan. and 1st Oct. yearly.

Penalty of ten shillings for killing.

II. From and after the publication hereof, it shall not be lawful for any person or persons whomsoever to shoot, kill, or destroy, or to have in his, her, or their possession, any partridge, partridges, or tree grouse, until the first day of October, which will be in the year of our Lord one thousand eight hundred and sixty-five; and from and after the last-mentioned period it shall not be lawful for any person or persons whomsoever to shoot, kill, or destroy, or to have in his, her, or their possession any partridge, partridges, or tree grouse, between the first day of January and the first day of October, in any year; and every person offending against any of the aforesaid provisions shall forfeit and pay the sum of ten shillings for every partridge or tree grouse so shot, killed, or had in possession within the periods respectively as aforesaid, to be recovered with costs before any one of Her Majesty's Justices of the Peace, on the oath of one or more credible witness or witnesses; and it shall be the duty of any such Justice as aforesaid, and he is hereby required, upon proof being made to his satisfaction, or upon view of

the violation of the provisions of this Act, to issue his warrant or warrants for the levying by distress and sale of the goods and chattels of such offender or offenders the amount of such penalty or penalties, one-half thereof to be paid to the informer, and the other half into the treasury of this island, for the use of Her Majesty's Government; and in the event of there being no goods and chattels whereupon to levy, such offender shall be committed to the jail of the county wherein the offence shall have been committed, for a period not exceeding one calendar month.

Recovery thereof.

III. This Act shall continue and be in force for ten years from the passing hereof, and from thence to the end of the then next session of the General Assembly, and no longer.

Limitation of Act.

A true copy, which I certify.

(Signed) DENNIS O. M. REDDIN,
Attorney-General.

9th September, 1870.

ANNO DUODECIMO VICTORIÆ REGINÆ.

No. XVI.

AN ACT to consolidate and amend the several Acts relating to summary Trespasses, and to repeal certain Acts therein mentioned.

Recited Acts repealed.

BE it enacted, by the Lieutenant-Governor, Council, and Assembly, That from and after the passing of this Act, the several Acts relating to trespasses hereinafter enumerated shall be and they are hereby repealed, that is to say: an Act passed in the sixteenth year of the reign of His late Majesty King George the Third, intitutled "An Act to "prevent trespasses on Crown lands;" an Act passed in the twentieth year of the same reign, intituled "An Act for preventing trespasses by unruly horses, cattle, and sheep, "and for preventing the running of hogs at large through the town of Charlottetown;" an Act passed in the twentieth year of the same reign, intituled "An Act to prevent the "cutting of pine and other trees without permission of the proprietor, and to prevent the "cutting down and destroying of fences;" an Act passed in the thirtieth year of the same reign, intituled "An Act to prevent the malicious killing, wounding, or maiming of "cattle;" an Act passed in the thirty-fifth year of the same reign, intituled "An Act to "amend an Act made and passed in the twentieth year of His present Majesty's reign, "intituled 'An Act to prevent trespasses by unruly horses, cattle, and sheep, and for "'preventing the running of hogs at large through the town of Charlottetown;'" an Act passed in the thirty-sixth year of the same reign, intituled "An Act to prevent the "robbing of gardens and orchards, potato and turnip fields, and throwing down of "fences, and for amending an Act made and passed in the twentieth year of His present "Majesty's reign, intituled 'An Act for preventing trespasses by unruly horses, cattle, "'and sheep, and for preventing the running of hogs at large through the town of "'Charlottetown;'" an Act passed in the fiftieth year of the same reign, intituled "An "Act to amend an Act intituled 'An Act to prevent the malicious killing, wounding, "'and maiming of cattle,'" and so much of an Act passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled "An Act for continuing several "laws near expiring," as relates to an Act passed in the fifth year of the reign of His said late Majesty King George the Fourth, intituled "An Act for summary punishment "in certain cases of persons wilfully or maliciously damaging or committing trespasses "on public or private property;" an Act passed in the ninth year of the said last-mentioned reign, intituled "An Act to continue and amend an Act of the fifth year of "His present Majesty's reign, intituled 'An Act to prevent the running at large of boar "'pigs, and to restrain swine from going at large without rings;'" an Act passed in the third year of the reign of His late Majesty King William the Fourth, intituled "An Act "to consolidate, amend, and reduce into one Act the several Acts of the General "Assembly relating to trespasses, and for other purposes therein mentioned;" an Act passed in the fifth year of the reign of His late Majesty, intituled "An Act to explain "and amend the Act relating to trespasses;" an Act passed in the fifth year of the reign of Her present Majesty, intituled "An Act to further explain and amend an Act passed "in the third year of the reign of His late Majesty King William the Fourth, intituled "'An Act to consolidate, amend, and reduce into one Act, the several Acts of the "'General Assembly relating to trespasses, and for other purposes therein mentioned;'" an Act passed in the eleventh year of the reign of Her present Majesty, intituled "An "Act to provide for the summary punishment of persons trespassing upon Crown "lands."

Penalty for occupying Crown lands without licence.

NORTH AMERICAN COLONIES.

Appropriation and mode of recovery of penalty.

II. And be it enacted, That from and after the publication hereof, all persons, whosoever, who shall or may locate, settle, or place any person or persons whomsoever, on any lands belonging to or vested in the Crown, whether held in trust for any public purpose or otherwise, or who shall or may occupy any such lands in any manner without having first obtained a grant thereof, or licence, or leave in writing for that purpose from the Lieutenant-Governor or other person or persons authorized to grant the same, shall or may be prosecuted for the same, and shall forfeit and pay a sum not exceeding twenty pounds, to be recovered in a summary manner in Her Majesty's Supreme Court of Judicature, with costs, and to be applied to and for the use of Her Majesty's Government of this island.

Penalty on persons cutting or carrying away trees from Crown lands.

III. And be it enacted, That any person or persons who shall hereafter cut down or fell any trees or wood of any kind or description, or bark or box any pine or other tree, standing, growing or being upon any of the lands belonging to or vested in the Crown in this island, whether held in trust for any public purpose, or otherwise, or take or carry away therefrom any trees or wood of any kind or description, felled, cut down, lying or being upon any such lands, shall forfeit and pay for every such offence a penalty not exceeding thirty shillings, for every tree so cut down, barked or boxed, taken or carried away, together with reasonable costs of recovering the same; the said penalty and costs to be recovered by and on the oath of any person or persons who may prosecute and sue for the same, or on the oath of any other credible witness, before any two of Her Majesty's Justices of the Peace for the County wherein such offence shall be committed, provided the forfeiture sued for before such Justices shall not exceed the sum of ten pounds; but if the amount of penalty sought to be recovered for any offence shall exceed the said sum of ten pounds, then the same may be sued for and recovered, with reasonable costs, in a summary manner, in Her Majesty's Supreme Court of Judicature, by and on the oath of any person or persons who may prosecute and sue for the same, or on the oath of any other credible witness, one-half of the penalty to be paid to the person or persons who shall prosecute and sue for the same, and the other half to be applied to and for the use of Her Majesty's Government of this island: provided also, that such penalties shall be sued for within six calendar months next after the offence shall have been committed, and not afterwards.

Limits the time within which penalties are to be sued for.

Penalty on persons cutting down or barking trees, &c., on lands of private parties.

IV. And be it further enacted, That from and after the publication hereof, no person or persons shall cut down or fell any trees or timber, or bark or box any pine or other trees standing or growing upon any lands in this island, nor carry away the same therefrom, without first obtaining a written licence from the owner or owners thereof, or from the agent or attorney, on pain of forfeiting and paying a sum not exceeding thirty shillings for every tree removed, barked or boxed, together with reasonable costs of recovering the same; the said fine to be paid to the owner or owners of such trees, and to be recovered before any two of Her Majesty's Justices of the Peace in this island, provided the forfeiture shall not exceed the sum of ten pounds; but if the same shall exceed that sum, then to be recovered by due course of law in the Supreme Court of Judicature: provided always that such penalties as are last mentioned shall be sued for within six calendar months next after the offence shall have been committed, and not afterwards.

Limits the time within which such penalty shall be sued for.

No fence to be deemed lawful unless 4½ feet high, and strongly made.

V. And be it further enacted, That from and after the passing of this Act no fence shall be deemed sufficient to entitle the owner to sue for trespasses committed by any of the animals hereinafter mentioned, upon the lands thereby enclosed, unless the same shall be at least four-and-a-half feet high, and strong and substantial; and the judgment of the fence viewers for the district, as to its sufficiency, shall be conclusive to entitle the party injured to damages under this Act: provided always, that when the ground enclosed is in part bounded by a cape, or any inaccessible natural boundary, the decision of the fence viewers of the district, as to its being sufficient or otherwise, shall be deemed conclusive; and no person shall be liable to any prosecution for trespass committed as last aforesaid, unless the same shall be commenced within three calendar months next after they shall have taken place.

Limits the time for prosecutions for trespasses.

Owners of horses, cattle, &c., breaking into grounds lawfully fenced liable to damages and costs.

VI. And be it further enacted, That if any horses, neat cattle, hogs, sheep, or other beasts shall break into any ground (not being pasture land) enclosed as aforesaid, the owner or owners thereof shall, for every such trespass, make reparation to the party injured to the full amount of the damages he or they shall have sustained, with costs of suit; and in order to ascertain the amount of such damages, the party injured may apply to the next Justice of the Peace, who is hereby empowered and required (upon the oath of complainant, or some other credible witness, as to the damage being done, and also stating who is or are the supposed owner or owners of, and the description of the trespassing beasts), to grant a warrant under his hand and seal to three of the nearest neighbours, empowering and requiring them to go to the ground so trespassed upon, and to view and appraise the damages, also giving notice to the owner or owners of the tres-

passing beasts, if known, to attend such appraisement, and to cause the said appraisers, or any two of them, to return a certificate to him upon oath of the amount of the damages; and such Justice of the Peace shall have power, and he is hereby authorized and required, to direct and order a reasonable satisfaction to the said appraisers for their trouble, according to the distance they shall have travelled, and other circumstances; which allowance to the said appraisers, it is hereby declared, shall be considered as in addition to the amount awarded for the damages so done to the injured party, and which the owner or owners of the trespassing beasts hereinbefore mentioned shall be obliged to pay; and if not paid within one calendar month, the same, with the assessed damages, as aforesaid, and costs, shall be levied by warrant under the hand and seal of the said Justice on the goods and chattels of the said owner or owners; and in order that the condition of the fence at the time of the trespass committed as aforesaid may be ascertained (in case the owner or owners of the trespassing beasts hereinbefore mentioned should allege the same to have been insufficient), the proof thereof shall lie upon such owner or owners; and in case of such fence being proved to be insufficient, then and in such case the owner or owners of the trespassing beasts shall not be liable to any damages whatsoever.

Mode of recovery of damages.

Proof of condition or fence to be upon owner.

VII. And be it further enacted, That when the damages so assessed shall have been done or committed by cattle belonging to several persons, then the said appraisers shall apportion the damages so assessed amongst the owners of such trespassing cattle, the same to be recovered from each as hereinbefore directed; and in case any appraiser, so appointed as aforesaid, shall neglect or refuse to yield due obedience to such warrant of appraisement, he shall forfeit a sum not exceeding ten shillings, to be recovered on the oath of one credible witness, before the Justice who may have issued the same, and to be levied on the goods and chattels of such appraiser, and another shall be appointed in his stead.

Mode of apportioning damages.

Penalty on appraiser for neglect.

VIII. And be it further enacted, That from and after the passing hereof, when proof shall be made by two credible witnesses, residing in any settlement or district within this island, to any one of Her Majesty's Justices of the Peace, that any unruly beast is at large, it shall and may be lawful for such Justice, and he is hereby directed and required to notify the owner of such beast of the proof so made, and to order the said beast to be confined; and if after such notice the owner of any such beast shall refuse or neglect to take up and keep the same confined, he or she shall be liable to a fine of five shillings for every day such beast shall be seen at large, after the notice so given; the said fine to be recovered as hereinbefore last directed, and paid into the treasury of this island, for the use of Her Majesty's Government.

Justice of the Peace may order owner to confine unruly beast.

Penalty for neglect.

IX. And be it further enacted, That the owner of every such unruly beast shall, if he or she neglect to take up and confine the same, after receiving such notice as aforesaid, be liable to all the damages occasioned by other cattle following such unruly beast into any enclosed ground, as aforesaid; the same to be recovered and paid as hereinbefore last directed.

Owner of such beast liable for damages.

X. And be it further enacted, That if any horses, neat cattle or sheep shall break into any pasture ground, fenced in manner hereinbefore specified, the owner or owners thereof shall forfeit and pay to the party aggrieved by the same as follows, that is to say: for every horse, three shillings; for every head of neat cattle, two shillings; and for every sheep or lamb, sixpence; to be recovered on the oath of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace, together with the costs of recovering the same; and if any person shall enter into or pass through any enclosed field or garden without the permission of the occupier thereof, or some person duly authorized by him to grant such permission, he or she shall be liable to a penalty of two shillings and sixpence for each offence, over and above the amount of all damages occasioned thereby, to be levied, recovered, and paid as last hereinbefore directed.

Penalty on owner of horses, &c., breaking into pasture ground.

Penalty for entering enclosed field or garden without permission.

XI. And whereas the running at large of boar pigs is found to be highly prejudicial to the breed of hogs within this island, and the practice of allowing swine to go at large without rings has been found injurious: Be it therefore enacted, that from and after the passing hereof, it shall and may be lawful to and for any person or persons whomsoever to take up any boar pig of three months old or upwards found at large, and upon complaint made by him or them to the nearest Justice of the Peace, within the county or district where the said boar pig shall be so found at large, the said Justice is hereby authorized and empowered to cause the same to be sold by public auction, and to pay to the person or persons who shall take up the same, the proceeds of such sale, after deducting reasonable costs and expenses: Provided, that no such pig shall be sold until the person who may have taken the same up shall have given at least three days' public notice, in writing, of such intended sale, by posting the same up at three of the most

Any boar pig, &c., found at large may be taken up.

If claimed before sale, to be returned to owner, &c.

NORTH AMERICAN COLONIES.

public places in the district; and if the owner of such pig shall claim the same before sale, he shall be entitled to have the same returned to him, on payment of a fine not exceeding ten shillings, to be determined by the Justice to whom the complaint shall have been made, which fine shall be paid to the person or persons who shall have taken up the said pig.

Swine going at large without being ringed may be taken up.

XII. And be it further enacted, That it shall and may be lawful for any person whomsoever to take and seize all swine going at large within any township or settlement, or on any of the highways in this island, without being ringed in the nose, so as effectually to prevent them from rooting or digging; and upon proof thereof on the oath of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace for the county in which such township or settlement or highway shall be situated, the owner thereof shall be, by the said Justice, fined in the sum of two shillings and sixpence, and reasonable costs, for every pig so seized, as aforesaid; and if the said fine shall not be paid within three days, or if no owner shall appear to claim the said swine, after notices having been posted up for three days, at three of the most public places within the district, that then the said Justice shall order the said swine to be sold, and shall pay the proceeds of such sale, or fine, to the person or persons who shall have taken up such swine, after deducting reasonable costs and expenses.

If no owner appears to claim, swine to be sold.

Proprietor, &c., in July in each year, may require owner of lands adjoining to destroy thistles growing thereon.

XIII. And whereas the seeds of thistles growing on the land or ground of one proprietor are frequently driven by the wind, or otherwise conveyed upon the lands and grounds of the adjoining proprietors: Be it therefore enacted, that it shall be lawful for any proprietor or occupant of land, at any time between the first and thirty-first days of July, in each year, by verbal notice in the presence of one witness, or by notice in writing left at the dwelling-house of the person to whom it may be addressed, or in case of undivided lands, in which several persons are interested, by notice to be posted up in the most conspicuous place near to such undivided lands, to require any proprietor or occupier of any adjoining lands or piece of ground not sown, not being a meadow in crop, or the persons being interested in such undivided lands as aforesaid, to destroy or cut down all such thistles as may be then growing on such adjoining land or piece of ground, the proprietor or occupier of land giving such notice having himself first destroyed or cut down all thistles on his own fields or grounds adjoining: and if the thistles so required to be destroyed or cut down are not entirely destroyed or cut down at the expiration of six days from the date of such notice, then it shall be lawful for any Justice of the Peace, upon complaint duly made before him, on the oath of one credible witness other than the complainant, or on the confession of the party complained of, to order, in writing, the proprietor or occupier, or other person against whom such complaint shall be made, to destroy or cut down such thistles within a period to be assigned by such Justice of the Peace, under a penalty on such proprietor or occupier, or other person as aforesaid, of five shillings for every day such thistles shall remain standing or growing after the time allowed by the Justices for destroying or cutting the same down, with the expenses incurred in obtaining such order and recovering the said fine; the same to be recovered before the Justice of the Peace who may have granted the order last aforesaid, and be levied by warrant of distress against the goods and chattels of such offender or offenders.

Penalty for not destroying thistles.

Mode of recovery thereof.

Penalty for damaging or injuring any building, fence, &c.

XIV. And be it further enacted, That if any person or persons shall do or commit any damage, injury or spoil, to or upon any building, fence, hedge, gate, stile, guide post, mile stone, or post, tree, wood, underwood, orchard, garden, nursery-ground, crops, vegetables, plants, land, or other matter or thing growing or being thereon, or to or upon real or personal property of any nature or kind soever, whether wilfully and maliciously or otherwise, and shall be thereof convicted within six calendar months next after the committing of such injury before any Justice of the Peace for the county or place where such offence shall have been committed, either by the confession of the party offending, or by the oath of one or more credible witness or witnesses, or of the party aggrieved in the premises, which oath such Justice is hereby empowered to administer, every person so offending and being thereof convicted as aforesaid, shall forfeit and pay to the person or persons aggrieved such a sum of money as shall appear to such Justice to be a reasonable satisfaction or compensation for the damage, or injury, or spoil so committed, not exceeding in any case the sum of five pounds over and above the costs of recovering the same, which said sum of money and costs shall be paid to the person or persons aggrieved; but in case such conviction shall take place on the sole evidence of the party aggrieved, then and in such case such satisfaction and compensation shall be paid into Her Majesty's treasury, towards the support of Her Majesty's Government of this island; and in default of payment of the sum of money in which the offender or offenders shall have been so convicted as aforesaid, immediately, or within such time as the Justice

Conviction to be within six calendar months, and before whom.

Penalty, how to be paid.

In default of payment, offender may be committed to jail.

shall appoint at the time of conviction, together with all costs, charges, and expenses attending the conviction, such Justice shall and may commit such offender or offenders to the common jail for any time not exceeding three calendar months, unless such penalty, costs, and charges shall be sooner paid and satisfied: provided always, that if any damages, injury, or spoil, shall have been done or committed as aforesaid, to or upon any church, chapel, bridge, building, common way, or other property whatsoever, whether real or personal, of a public nature, or wherein any public right is concerned, it shall and may be lawful to or for any such Justice to proceed against and convict the offender or offenders within the time aforesaid, and in manner aforesaid, in any sum not exceeding five pounds, over and above the costs of recovering the same, as to such Justice shall seem just and reasonable, at the instance, and upon the information, of any person prosecuting such offender or offenders, and to order and direct one moiety of the sum forfeited for such offence to be paid to the person so prosecuting, and the other moiety for the use of Her Majesty's Government as aforesaid; and in default of payment of the sum in which any such offender or offenders shall have been so convicted as last aforesaid, together with all costs, charges, and expenses attending such conviction as aforesaid, such Justice shall and may commit such offender or offenders to the common jail for any time not exceeding three calendar months, unless such penalty, costs, and charges shall be sooner paid and satisfied.

In case of damage committed on any species of public property.

XV. Provided also, and be it further enacted, That if any person or persons, under the age of sixteen years, shall offend against either of the last two foregoing clauses of this Act, it shall be lawful for the Justice, before whom he, she, or they shall have been convicted, in default of payment of the sum of money awarded against him, her, or them by the said Justice, together with all costs, charges and expenses attending such conviction, immediately, or within such time as the Justice shall appoint at the time of conviction, to commit such offender or offenders to the common jail, there to be kept for any term not exceeding six weeks.

Offenders under 16 years of age, how punished.

XVI. And for the more easy bringing of offenders against the fourteenth and fifteenth sections of this Act to justice: Be it further enacted, That it shall and may be lawful to and for any constable, and to and for the owner or owners of any property so damaged, injured, or spoiled, and to and for his, her, or their servants, or other person or persons acting by or under his or their authority, and to and for such person or persons as he, she, or they may call to his, her, or their assistance, without any warrant or other authority than by this Act, to seize, apprehend, and detain any person or persons who shall have actually committed, or be in the act of committing, any offence or offences against any of the provisions contained in the said fourteenth and fifteenth sections of this Act, and take him, her, or them before any Justice of the Peace for the county or place where the offence or offences shall have been committed, and such Justice is hereby empowered and required to proceed and act with respect to such offender or offenders in manner by this Act directed.

Offenders against 14th and 15th sections may be seized and detained without warrant.

XVII. And for the more easy and speedy conviction of offenders against any of the provisions contained in this Act: Be it further enacted, That every Justice of the Peace, before whom any person or persons shall be convicted of any offence against any of the provisions contained in this Act, shall and may cause the conviction to be drawn up in the following form of words, to the same effect, as the case may happen, viz.:—

Form of conviction under this Act.

Be it remembered, that on the day of in the year of our Lord one thousand eight hundred and *A. B.*, is convicted by and before me one of Her Majesty's Justices of the Peace for the county of for that the said *A. B.* (here state the offence, and the time and place when and where the same was committed,) contrary to the statute in such cases made and provided; and I, the said Justice, do hereby adjudge and determine that the said *A. B.* shall, for his said offence, forfeit and pay the sum of lawful money of this island, together with costs, and do order that the same shall forthwith be paid by him (here direct the payment according to the above mentioned sections of this Act).

Given under my hand and seal, the day and year first above written.

Conviction and punishment may be pleaded in bar of any suit for same offence.

XVIII. Provided always, and be it further enacted, That in case any person or persons shall be convicted of any offence against any of the provisions contained in the said fourteenth and fifteenth sections of this Act, before any Justice of the Peace, on the complaint or information of any person or persons, of public or private property having been so injured, damaged, or spoiled, and shall have paid the penalty, costs, and charges under such conviction, or shall have suffered the imprisonment awarded for nonpayment thereof, then, and in every such case, such conviction shall and may be pleaded in bar of any action, suit, or information that shall afterwards be commenced, instituted, or prosecuted for such and the same offence in any Court whatsoever.

Owner of turkeys, geese,

XIX. And whereas great damage is often occasioned to proprietors or occupants of

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land under cultivation, by geese, turkeys, and ducks belonging to persons other than such proprietors or occupants: Be it therefore enacted, That it shall and may be lawful for any person, being proprietor or occupant of such lands where any such damage is occasioned, to make complaint thereof before any one Justice of the Peace, and on proof thereof by one credible witness other than the informer, the owner of or possessor of such geese, turkeys, and ducks shall be adjudged to pay a penalty not exceeding one shilling for each goose, turkey, or duck having been found occasioning such damage, together with costs of recovering the same, the said fine to be paid to the person or persons sustaining such damage as aforesaid; and in case such fine be not paid within such time, not exceeding fourteen days, as such Justice shall see fit, the person adjudged to pay such fine shall be committed to the common jail of the county wherein such offence is committed for a period not exceeding fourteen days, unless such sum be sooner paid.

&c., trespassing, liable to a penalty of 1*s.* each, and costs.

XXI. And be it further enacted, That when any person or persons shall be convicted, on the oath or oaths of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace, of having wilfully and maliciously cut, maimed, or killed any horses, neat cattle, sheep, or swine within this island, it shall and may be lawful for such Justice, and he is hereby authorized to fine any such offender or offenders in a sum not exceeding five pounds over and above the costs of recovering the same; and, as a further punishment, such Justice is hereby required to commit every such offender or offenders to prison for a period not exceeding thirty days, nor less than ten days, and further for any term not exceeding sixty days, or until such fine and costs shall be paid: Provided always, That when the damages shall exceed five pounds, the party aggrieved may proceed to recover the same by action in Her Majesty's Supreme Court of Judicature, and therein full double damages shall be given; and the offender may also be proceeded against by indictment, and, upon conviction, shall be liable to imprisonment in the common jail for a period not exceeding six calendar months.

Cutting or maiming horses, cattle, &c., how punishable.

XXII. And be it enacted, That no judgment of nonsuit or judgment for the defendant shall be given by any Justice or Justices of the Peace under this Act, only in consequence of the defendant suggesting or setting up a claim of title to land in himself, or others than the plaintiff as aforesaid; but in all such cases the Justices shall, and they are hereby required, to enquire and investigate into the whole complaint and defence made before them, and give judgment on the whole evidence adduced, whether title to land may or may not be part of that evidence, any practice or usage heretofore to the contrary notwithstanding.

Defines the power of Justices of the Peace in prosecutions for trespasses on lands.

XXIII. And be it enacted, That it shall and may be lawful for either the plaintiff or defendant, in any case which shall be adjudicated under the provisions and by the authority of this Act, to appeal to the Justices of Her Majesty's Supreme Court of Judicature, within forty-eight hours from the time of such adjudication, in the manner permitted to any plaintiff or defendant in and by an Act passed in the seventh year of Her present Majesty's reign, intituled "An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned," and upon complying with the provisions of the said Act regarding appeal, the Justices of the said Court may, and they are hereby authorized and empowered, to allow costs to the appellant or respondent in appeals, as to such Justices, in their discretion, shall appear proper, and to affirm, quash, or otherwise alter or vary the judgment given below, with or without costs, or with such portion of the full costs for or against either party, as to the said Justices shall seem reasonable, according to the nature of the case, as it may appear to them on the hearing of any such appeal, and thereupon to enforce their said judgment in the way and manner prescribed in and by the said last hereinbefore recited Act.

Gives the right of appeal to plaintiff or defendant in cases under this Act.

XXIV. And be it further enacted, That no judgment of any Justice or Justices of the Peace given under this Act, or judgment or decision of the Supreme Court, on any appeal from any judgment of any Justice or Justices of the Peace under this Act, shall be pleaded in bar or justification, or otherwise, in any Court, by the party who may have obtained the same, in order to support or defeat any title to lands, tenements, or hereditaments within this island.

No judgment to be pleaded in bar to support or defeat title to lands, &c.

XXV. And be it further enacted, That in the construction of this Act, words importing the singular number only, shall include the plural number, and words importing the plural number only shall include also the singular number; words importing the masculine gender shall include females, except the context excludes such construction.

Construction of terms used in this Act.

A true copy, which I certify. (Signed) DENNIS O. M. REDDIN,
9th September, 1870. Attorney-General.

*** The 20th section of the above Act, relating to the running at large of geese within Charlottetown, having been repealed by a bye-law of the City of Charlottetown, passed under the powers vested therein under the Act of Incorporation, has been omitted.

24 VICTORIA, CAP. 22.

See 12 Vict. c. 16.

AN ACT for the Punishment of Persons who shall be guilty of the Trespasses therein mentioned. [*Passed April* 29, 1861.]

Preamble.

WHEREAS grievous depredations are frequently committed by evil-disposed persons in and upon the gardens, orchards, and other cultivated grounds of divers of the inhabitants of this island, and the existing laws do not adequately provide for the punishment of such offenders:

Persons convicted of stealing, destroying, &c., vegetables, fruits, &c., in any garden, &c., how punishable.

I. Be it therefore enacted, by the Lieutenant-Governor, Council, and Assembly, that from and after the passing of this Act every person who shall pluck, pull up, cut or destroy, steal or carry away, or in any manner damage or injure any crop, vegetables, fruit, shrub, plant, root or roots, fruit or ornamental tree or trees, or other things growing or being in any garden, orchard, nursery ground, field or other cultivated ground, hot-house, greenhouse, or conservatory of any person or persons whomsoever within this island, and shall be thereof convicted before two or more of Her Majesty's Justices of the Peace for the County wherein any such offence shall have been committed, or if within the City of Charlottetown and common thereof, before the Mayor and one or more Councillors, or before any two of the City Councillors, either by the confession of the party offending or on the oath of one or more credible witness or witnesses, every such person so offending shall for each and every such offence, on conviction, be committed to the common jail of the county wherein any such offence shall have been committed, there to be imprisoned only, or to be imprisoned and kept to hard labour for not more than one calendar month; or else shall forfeit and pay, over and above the value of the article stolen, or the amount of the injury done, a sum not exceeding ten pounds, nor less than ten shillings, together with costs, to be levied by warrant of distress and sale of the goods and chattels of such offender; and for want of goods and chattels whereon to levy, such offender shall be committed as aforesaid, with or without hard labour, as to such Mayor and Councillors or Justices committing shall seem meet, for not more than one calendar month, unless such fine and costs shall be sooner paid.

Term of imprisonment.

Amount of penalty, and mode of recovering same.

This Act no to preclude party recovering damages against trespassers.

II. This Act, or anything herein contained, shall not bar or preclude any person or persons from recovering his, her, or their damages against any person or persons who shall be guilty of any of the mischief or trespasses aforesaid; but the same may be recovered in the same manner as if this Act had not been passed.

Implicated party on giving information, within one month, that will lead to conviction of others, to be exempt from fine.

III. If two or more persons shall have been jointly concerned in committing any such offence as aforesaid, and one or more of them (not having been informed against) shall, within the space of one month after the offence committed, inform or give information against any or all of the others concerned in the same offence (not having been then informed or proceeded against) so as to convict him, her, or them, the person so informing shall not be liable to any part of the fine hereinbefore mentioned.

Appropriation of fines.

IV. All fines and forfeitures under this Act, when recovered, shall be appropriated as follows: one moiety thereof to the person who shall prosecute therefor, and the other moiety, if recovered before the Mayor and Councillors of the City of Charlottetown, shall be paid to the City Treasurer for the use of the said City, and if before any of Her Majesty's Justices of the Peace for any of the counties in this island, then to the Colonial Treasurer for the use of Her Majesty's Government.

Duration of Act.

V. This Act shall continue and be in force for the space of ten years from the passing thereof.

A true copy, which I certify. (Signed) DENNIS O.M. REDDIN,
9th September, 1870. Attorney-General.

NEWFOUNDLAND.

COPY of a DESPATCH from Governor HILL, C.B., to the EARL of KIMBERLEY.

(No. 71.) Government House, Newfoundland,
8th October, 1870.

MY LORD,

1. I have had the honour to receive your Lordship's Circular, 2nd August, 1870, relative to the desire of Her Majesty's Government to obtain information as to the laws

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in force in the colonies as to Trespass, and also as to the Preservation of Game, and requesting to be furnished with copies of any enactments in force in the Colony of Newfoundland.

2. I beg to forward, for your Lordship's information, a printed copy of "An Act to "amend and consolidate the Game Laws." The Act has very lately passed the local Legislature, has received the sanction of the Crown, and is sufficiently explicit as to render any remarks of mine thereon unnecessary. I may, however, remark that the Act in question contains no provision as to trespasses committed in pursuit of game, &c., &c.

I have, &c.,

The Right Hon. the Earl of Kimberley, &c. &c. &c. (Signed) STEPHEN J. HILL.

Enclosure in No. 3.

Enclosure in No. 3.

ANNO TRICESIMO TERTIO VICTORIÆ REGINÆ.

No. VII.

AN ACT to Repeal an Act passed in the thirty-second year of the Reign of Her present Majesty, entitled "An Act to amend and consolidate the Game Laws," and to make other provisions in lieu thereof.

[*Passed 9th May*, 1870.]

Section
1. Act 32 Vict. c. 5 repealed.
2. Partridge, snipe, &c., not to be killed between 25th January and 1st September.
3. Wild rabbits or hares not to be killed between the 1st day of March and 1st day of September.
4. Deer not to be killed between the 1st day of March and 15th of July.
5. Eggs of wild birds not to be destroyed.
6. Birds and animals mentioned in this Act are declared to be game.
7. Penalty.
8. Imported hares, &c. not to be killed for five years, except in Central District. Proviso.
9. Firearms on Sunday unlawful except a traveller on a journey.
10. Possession of game killed out of season unlawful.
11. Constable empowered to search.
12. Search-warrant.
13. Married women liable.
14. Penalty on resisting constable.
15. Killing deer by slips, dead-falls, traps, &c., prohibited.
16. Offences against Act, how punished.
17. Act not to extend to poor settlers.

Preamble.

WHEREAS it is expedient to repeal an Act passed in the thirty-second year of the reign of Her present Majesty, intituled "An Act to amend and consolidate the Game Laws," and to make other provisions in lieu thereof:

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in legislative session convened, as follows:

Act 32 Vict. c. 5 repealed.

I. That the said recited Act shall be and the same is hereby repealed.

Partridge, snipe, &c., not to be killed between 25th Jan. and 1st September.

II. That no person shall hunt, kill, take, purchase, sell, barter, or give away, any ptarmigan, grouse, partridge, snipe, blackbird, or any other wild or migratory bird (except wild geese) within this colony or its dependencies, from the twenty-fifth day of January until the first day of September in any year.

Wild rabbits or hares not to be killed between the 1st day of March and 1st day of September.

III. That no person shall hunt, kill, take, purchase, sell, barter, or give away, any wild rabbit or hare, within this colony and its dependencies, from the first day of March to the first day of September in any year.

Deer not to be killed between the 1st day of March and 15th day of July.

IV. No person shall kill or destroy any deer, within this colony, from the first day of March until the fifteenth day of July in any year.

Eggs of wild birds not to be destroyed.

V. No eggs of any kind of birds before mentioned shall be taken or destroyed at any time, under a penalty not exceeding twenty-five dollars.

Birds and animals mentioned in this Act are declared to be game.

VI. For the purposes of this Act, all the birds and animals before mentioned are hereby declared to be game.

Penalty.

VII. Any person who shall be found at any time hunting for game within the periods mentioned in the second and third sections, shall be liable to a penalty not exceeding twenty-five dollars.

Imported hares, &c.. not to be killed for five years except in Central District.

VIII. During the period of five years from the future importation of any hares, quails, or other game into this island, it shall not be lawful for any person to hunt, take, kill, or carry them away, or any of their progeny, except in the Central District, under a penalty not exceeding twenty-five dollars; provided that this section shall not apply to any future importation into the Central District of hares of the Nova Scotia breed.

IX. Any person who shall be found on Sunday using or carrying firearms shall be subject to a fine not exceeding four dollars, except a traveller on a journey.

X. No person shall have in his possession any of the said animals or birds, unless killed within the periods above respectively fixed for the killing thereof; the burden of the proof whereof is to be on the party charged.

Proviso. Firearms on Sunday unlawful except a traveller on a journey. Possession of game killed out of season unlawful.

XI. Any constable or peace officer shall search any person whom he may have good cause to suspect of coming or going from any land where he may have been unlawfully in search of or shooting any game; and such constable or peace officer shall also stop and search any cart or other conveyance in or upon which such constable or peace officer may have good cause to suspect that any game is being carried by any such person; and should any game be found upon such person, cart, or conveyance, seize and detain said game: and such constable or peace officer shall in such case apply to some Justice of the Peace for a summons, citing such person to be dealt with according to the provisions of this Act.

Constable empowered to search.

XII. A Justice of the Peace shall, on information in writing being lodged with him, of any person having secreted in his house, or other building, any game in violation of the provisions of this Act, issue his warrant to any constable or peace officer to search therein; and should any such game be found therein, such constable or peace officer shall seize and detain the same, and shall cite such offender before a Justice of the Peace, to be dealt with according to the provisions of this Act.

Search-warrant.

XIII. Married women concerned in any breach of the provisions of this Act shall be liable for the penalty thereto attaching as if they were unmarried women or principals; but the husband of the person so offending shall not be liable to be sued for the same offence; but in the case of married women, the fine may be levied upon the property of the husband.

Married women liable.

XIV. Any person resisting any constable or peace officer in carrying out the provisions of this Act shall be liable to a penalty not exceeding twenty-five dollars.

Penalty on resisting constable.

XV. No person shall kill, take, or destroy any deer by slips, dead-falls, traps, or spears, under penalty of twenty dollars for every offence.

Killing deer by slips, dead-falls, traps, &c., prohibited.

XVI. Offences against the provisions of this Act shall be punished summarily, on information and conviction before a Justice of the Peace; and when not hereinbefore specially provided for, by a fine not exceeding twenty-five dollars, nor less than two dollars, for each head of game killed or in possession of said offender, in the discretion of such Justice of the Peace, with costs, together with the forfeiture of such game; all fines by this Act imposed to be levied on the goods and chattels of such offender; and in case he shall not have any goods and chattels on which to levy such fine and costs, or in case he shall make default in the payment thereof, then by imprisonment for a term not exceeding one month; one-half the fine to go to the informer, the remainder to the Receiver-General for the use of this colony.

Offences against Act, how punished.

XVII. Nothing in this Act shall be construed to extend to any poor settler who shall kill any game for his own immediate consumption, or that of his family.

Act not to extend to poor settlers.

No. 4.

No. 4.

BERMUDA.

COPY of a DESPATCH from Governor SIR T. GORE BROWNE, K.C M.G., to the EARL of KIMBERLEY.

(No. 62.)

MY LORD, Government House, Bermuda, 19th October, 1870.

With reference to your Lordship's Circular Despatch of 2nd August, requiring information as to the laws in force in this colony as to Trespass, and also as to the Preservation of Game, I have the honour to forward a letter from the Attorney-General, covering the Acts only in force on the subject of Trespass.

Attorney-General to Governor, 19th Sept., 1870.

There is no Game Law in Bermuda; but I enclose an Act passed in the late session for the extirpation of the crow and the protection and preservation of other birds.

Act, 1784.

Act, 1834.

Act, 1866.

I have, &c.,

The Right Hon. the Earl of Kimberley, &c. &c. &c.

(Signed) T. GORE BROWNE.

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Enclosures in No. 4.

Enclosures in No. 4.

SIR, Bermuda, 19th September, 1870.

In reply to your Excellency's memorandum on the Colonial Office Circular of 2nd August, 1870, calling for information as to the laws in force in these islands concerning Trespass and the Preservation of Game, I have the honour to report that the only Acts on the former subject are one of 1784 and another of 1834.

The former is "An Act for the more effectual Prevention of Damage from Persons "passing over any Wall, Ditch, Hedge, or other Inclosure," and the latter is an Act to amend that Act.

The Act of 1784 imposes a fine equal to 1*s.* 3*d.* sterling on every person convicted before a magistrate of climbing over or passing any wall, fence, hedge, ditch, or gate of any inclosure through which no road is legally established. It directs the fine to be paid to the churchwardens of the parish in which the offence is committed.

The Act of 1834 increased the fine to 3*s.* 4*d.* old currency, equal to 2*s.* sterling, over and above the amount of the injury, if any, done by the trespasser and costs of prosecution, and made it payable to the proprietor or occupier of the land trespassed on, and for a second offence on the same inclosure doubled the fine.

Under the existing law, therefore, a person trespassing on inclosed land is liable to pay for the damage done and to damage beyond that to the amount of 2*s.* for a first and 4*s.* for a second offence, besides "costs of prosecution."

Irrespective of these Acts a person retains his common-law right of action against a trespasser, and can sue before a magistrate's court for damages up to 24*s.*, and in the superior court for damages beyond that.

This is the state of the law concerning trespass to land. There is no law in Bermuda relating to the preservation of game.

We have a law against trespasses on inhabited houses which is peculiar to these islands, and was called for by the unprotected state of isolated residences frequently occupied solely by females.

It is "An Act to make more Effectual Provision for the Security of Inhabited Houses," and was passed in the year 1866.

By it a person unlawfully breaking into a dwelling-house or inhabited building by night is subject, on conviction before two magistrates, to a fine of not more than £10 and not less than £2 and costs of prosecution, and to imprisonment with hard labour at the discretion of the Justices, not exceeding three months. This clause was meant to meet cases of housebreaking where no felonious intent could be proved. A minor punishment is provided for similar offences committed in the daytime, and for the offence of prowling about or entering inhabited houses without lawful excuse so as to annoy or alarm the inmates.

The Act provides that no question involving title shall be entertained by the Justices under it, and gives to every person charged with an offence under it a right to be tried by a jury in a superior court if he prefers it.

This Act has been found to work well, and meets some offences against society which the common law does not reach.

There is no other local legislation on the subjects referred to in the Circular Despatch.

I will request the Colonial Secretary to forward to your Excellency copies of the Acts to which reference has been made.

I have, &c.,
(Signed) S. B. GRAY,
Attorney-General.

Colonel Sir T. Gore Browne, K.C.M.G., C.B.,
&c. &c. &c.

BERMUDA ACTS.

AN ACT for the more Effectual Prevention of Damage from Persons passing over any Wall, Ditch, Hedge, or other Inclosure. [25*th May*, 1784.]

Preamble. WHEREAS many inconveniences have arisen to landholders, who have been at considerable expense to inclose their land, from persons passing over their inclosures, by which the end proposed in making them is in a great measure defeated:

Penalty for passing over inclosed land where there is

I. We, &c., and be it enacted, &c., that if any person shall climb over or otherways pass any wall, fence, hedge, ditch, or gate of any inclosure through which no road is established in the manner by law directed, or shall be found within such inclosure, he,

she, or they so offending shall, upon proof being made thereof before any one or more of His Majesty's Justices of the Peace, forfeit and pay the sum of two shillings and eightpence for every such offence, over and above any penalty heretofore imposed on persons committing trespasses—and in case of refusal to pay the same, it shall be lawful for the Justice by his warrant to cause the same to be levied or distrained for on the goods and chattels of such offender—and that such penalty (the costs of prosecution being first deducted) be paid into the hands of the churchwardens of the parish where the offence shall be committed, to be applied to the purpose of defraying the incident charges of such parish.

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no established road.

II. And be it, &c., that the proprietor of any slave offending against this Act shall be accountable for such trespass as if such proprietor had committed the same, and liable to the like penalty and forfeiture.

Proprietors of slaves offending made liable for penalties.

III. And be it, &c., that this Act shall continue in force from the first day of June next to the first day of June, One thousand seven hundred and eighty-six, and so to the end of the next session of Assembly, and then to determine and expire.

Duration.

(Continued indefinitely by the Act of twenty-ninth June, One thousand seven hundred and ninety-three.)

AN ACT to amend an Act for the more Effectual Prevention of Damage from Persons passing over any Wall, Ditch, Hedge, or other Inclosure. [*4th September*, 1834.]

WHEREAS the Act the title whereof is above recited, was passed by the Legislature of these Islands in the year of our Lord One thousand seven hundred and eighty-four, for a certain period therein mentioned, and by a certain other Act passed in the year One thousand seven hundred and eighty-eight, was renewed and prolonged unto the first day of May, One thousand seven hundred and ninety-three, and by a certain other Act passed in the year One thousand seven hundred and ninety-three was prolonged and rendered indefinite, and it is expedient to amend the same: We, &c., the General Assembly, &c., be it enacted, &c., that if any person shall climb over or otherwise pass any wall, fence, hedge, ditch, or gate of any inclosure, through which no road is established in the manner by law directed, or shall be found within any such inclosure without permission of the proprietor or occupier thereof, every such offender, being convicted thereof before a Justice of the Peace, shall for the first offence (instead of the penalty by the said Act prescribed) forfeit and pay, over and above the amount of the injury, if any, done by such offender within such inclosure, and cost of prosecution, the sum of three shillings and fourpence to the proprietor or occupier of the land: And if any person so convicted shall afterwards be guilty of any of the said offences within the same inclosure, and shall be convicted thereof in like manner, every such offender shall for such second or subsequent offence forfeit and pay, over and above the amount of injury, if any, done by such offender within such inclosure, and costs of prosecution, the sum of six shillings and eightpence to the proprietor or occupier of the land; such penalties or forfeitures and costs of prosecution to be sued for and recovered in like manner as debts not exceeding five pounds are recoverable by law.

Preamble.

Penalties against trespassers.

AN ACT to make more effectual Provision for the Security of Inhabited Houses. [12*th July*, 1866.]

WHEREAS no sufficient provision is made by law for the prevention or punishment on certain trespasses on inhabited houses when not committed with an apparently felonious intent, whereby the inhabitants of these islands, especially those residing in remote and secluded spots, are left in a very unprotected state, and it is deemed expedient to provide some means of protecting inhabitants of houses against such trespasses:

Preamble.

We, &c., the General Assembly, &c., be it enacted, &c.:

I. Whenever any person without lawful excuse shall break and enter any dwelling house or any building within the curtilage of any dwelling house and occupied therewith, or any inhabited building between the hours of seven o'clock in the evening and seven o'clock in the morning, every such person on being convicted thereof before any two Justices of the Peace shall be liable to a fine of not less than Two pounds and not more than Ten pounds, together with costs of prosecution; and also, if the said Justices shall see fit, to a term of imprisonment with or without hard labour not exceeding Three calendar months; and in default of payment of the fine and costs within such time as the Justices shall allow they shall have power to commit the offender to either of Her

A nocturnal trespass made punishable by a maximum fine and imprisonment of £10 and 3 calendar months, with a maximum detention of 3 months more, till the fine is paid; and by costs of prosecution.

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Majesty's gaols, there to remain for such period over and above any term of imprisonment to which such offender shall have been sentenced as shall not exceed Three calendar months, unless the fine and costs shall be sooner paid.

Diurnal trespass punishable by a maximum fine of £5 without imprisonment, but with 3 months' detention until or unless the fine is paid, and by costs of prosecution.

II. Whenever any person without lawful excuse shall break and enter any dwelling house or any building within the curtilage of any dwelling house and occupied therewith or any inhabited house between the hours of seven in the morning and seven in the evening of the same day every such person on being convicted thereof as aforesaid shall be liable to a fine of not less than One pound and not more than Five pounds, together with costs of prosecution; and in default of payment of fine and costs within such time as the Justices shall allow they shall have power to commit the offender to either of Her Majesty's gaols for such period not exceeding Three calendar months as the Justices shall order, unless the fine and costs be sooner paid.

Trespass by day or by night, if causing annoyance or alarm to the inmates. made punishable by a maximum fine of £5 with costs of prosecution, and detention of 60 days or till payment.

III. Whenever any person without lawful excuse shall hover, lurk, or prowl about any dwelling house or any inhabited building by day or by night so as wantonly to annoy or alarm any person inhabiting or being therein, or shall without lawful excuse enter or be found into or upon any such dwelling house or inhabited building, or shall attempt to enter any such house or building so as wantonly to annoy or alarm any person therein, such offender on being convicted thereof before any two Justices of the Peace shall be liable to a fine of not less than One pound and not more than Five pounds, together with costs of prosecution; and in default of payment within such time as the Justices shall appoint shall be liable to any term of imprisonment not exceeding Sixty days.

Whatever would be a burglary is in the meaning of this Act a breaking and entering, and persons may be indicted for felony and attempt at felony irrespectively of this Act, although a conviction under this Act will discharge the convict from indictment for the same offence but not from further civil liabilities.

IV. Within the meaning of this Act any act which would constitute a breaking and entering within the legal meaning of an indictment for burglary shall constitute the offence of breaking and entering, but nothing herein contained shall be construed to prevent any person so breaking and entering being prosecuted for any felony or any attempt to commit any felony for which he might have been prosecuted had this Act not been passed; provided that no person after having been convicted under this Act shall be liable to be prosecuted criminally for the same offence in any Court; but nothing herein contained and no conviction under this Act shall discharge any person of any liability in any civil suit.

Power of appeal to Court of Assize or Quarter Sessions given to the accused at his option, and at the Magistrates' option if the accused do not select.

Witnesses to be bound over to prosecute and give evidence before the superior Court.

Accused to be committed to prison or bailed in £40 by one surety, or by two in £20 each.

Bailment to be certified and depositions to be subscribed.

The accused to be indictable for misdemeanour before Appellate Court, and to be liable to a fine and imprisonment not exceeding £30 and 6 months, and to give surety—and a

V. Whenever any person shall be charged before any two Justices of the Peace with any or either of the offences in the first, second or third section of this Act mentioned, and there shall appear to the Justices to be sufficient grounds for judicial inquiry into the guilt of such person, one of the Justices, before such person shall be asked whether he or she has any cause to show why he or she should not be convicted, shall say to the person so charged these words or words to the like effect: "We shall have to hear "what you wish to say in answer to the charge against you, but if you wish the charge "to be tried by a Jury you must object now to our deciding upon it at once;"—and if such person shall then object, the Justices shall proceed to take any further evidence on the charge which may be offered, and which they may consider material, in the usual manner, and shall bind over the witnesses by recognizance to appear at the next Court of General Assize or of Quarter Sessions of the Peace (at the option of the person accused, or in case such person shall not then declare any such option upon being apprised by the Justices of his or her right to make such option) at either of those Courts which the Justices shall think fit, then and there to prosecute or give evidence against the person accused, and shall commit the person accused to prison to abide such trial, or require bail from such person with one sufficient surety in a sum of not less than Forty pounds, or with two sufficient sureties in sums of not less than Twenty pounds each; and in every case of bailment shall certify the bailment in writing; and shall subscribe all examinations, informations, bailments, and recognizances relating to such charge, and cause the same to be delivered to the proper officer of the Court where the trial is to be, with all convenient despatch; and every person so charged and claiming the right to be tried by a Jury shall be liable to be prosecuted by indictment in the said Court for any such offence as for a misdemeanour, and upon conviction thereof shall be liable to a fine and imprisonment either with or without hard labour, such fine not to exceed Thirty pounds, and such imprisonment not to exceed Six calendar months; and also (if the Court shall so think fit) to give surety to keep the peace; and if upon the trial of any such person in either of the said Courts any witness examined on such charge before the Justices shall be dead or absent from Bermuda, or prevented by illness from attending such trial, or shall appear in the said Court wilfully to have absented himself or herself from such trial, it shall be lawful for the said Court (if it shall so think fit) to admit the examination of such witness taken before the Justices, or a copy thereof, to be given in evidence, subject to all just exceptions.

VI. Nothing herein contained shall be construed to give to the Justices of the Peace

cognizance of any suit or prosecution to which the title to any hereditaments shall be in question or in which the validity of any devise, bequest, or limitation under any will, deed, or settlement may be in question, or to subject to any penalty or punishment any person entering or trespassing upon any house or building under any claim of right or title.

copy of the examination of defaulting witnesses to be admissible under just exceptions.

Nevertheless, questions of title not to be cognizable by magistrates.

VII. This Act shall continue in force until and throughout the last day of December, One thousand eight hundred and sixty-eight, and shall then determine and expire.

Duration.

AN ACT for the Extirpation of the Crow, and the Protection and Preservation of other Birds. [8*th October*, 1870.]

WHEREAS it is found that the bird called crow has become a nuisance, and is very destructive to young domestic poultry and to the few native wild birds of these islands which are esteemed the gardener's friends, but are fast becoming extinct through the depredations of the said birds called crow, which are rapidly increasing and getting very numerous, and it is deemed expedient, for the better success of agricultural industry, that the crow be extirpated, and the native wild birds be protected, and their increase encouraged.

We, therefore, your Majesty's most dutiful and loyal subjects, the General Assembly of these your Majesty's Bermuda or Somers' Islands, do most humbly beseech your Majesty that it may be enacted, and be it enacted by your Majesty's Governor, Council, and Assembly, and it is hereby enacted as follows:

1. From and after the passing of this Act, and until the first day of January in the year of our Lord One thousand eight hundred and seventy-two, any person producing to any Justice of the Peace resident in the parish where such person resides, or if there be no resident justice to any neighbouring justice, the eggs or bodies of any crows and destroying the same, if living, in the presence of such justice, or if such crows be dead satisfy any such justice that such person killed the same, shall receive a certificate from such justice specifying the number of crows and eggs destroyed by such person, and on producing such certificate to the Receiver-General or Assistant Receiver-General, such person shall receive out of the Public Treasury in respect of every crow destroyed by him a reward of two shillings, and in respect of every crow's egg destroyed by him sixpence: provided, that the Receiver-General or Assistant Receiver-General shall not under this enactment pay at any one time to any one person for the destruction of fewer than five crows, or of fewer than twenty crows' eggs.

2. Any person after the passing of this Act, upon conviction before any Justice of the Peace of wantonly or wilfully shooting or otherwise destroying any red bird, blue bird, blackbird, or cat bird, ground dove, chick of village, or quail, between the first day of January and the first day of September, or any rare bird kept for profit or pleasure, shall pay a fine of not less than five shillings and not more than twenty shillings, such fine to be enforced in the manner provided by the Act "to facilitate summary proceed-"ings before Justices of the Peace," and the Act "to amend the Act to facilitate "summary proceedings before Justices of the Peace," with the like imprisonment in default of paying the fine and costs by the said Acts or either of them provided: provided, that nothing herein contained shall prevent any person injured by the destruction of any bird belonging to him from having such remedy for the injury as, but for this Act, he would be entitled to.

3. This Act shall be and continue in force until and throughout the first day of January in the year One thousand eight hundred and seventy-two.

Certified by me to be a true copy.

(Signed) MILES GERALD KEON,
Colonial Secretary, Bermuda.

NORTH AMERICAN COLONIES.

No. 5.

No. 5.

BRITISH COLUMBIA.

COPY of a DESPATCH from Governor MUSGRAVE to the EARL of KIMBERLEY.

(No. 126.) Government House, British Columbia,
MY LORD, 12th October, 1870.

I have had the honour to receive your Lordship's Circular Despatch of the 2nd August, requiring information as to the laws in force in the Colonies as to Trespass, and also as to the Preservation of Game.

2. With regard to the law of Trespass, it is the same as in England on the 19th of November, 1858, as provided by the "English Law Ordinance, 1867," No. 27, of which I enclose a copy; with the exception made by Section III. of the "Fence Ordinance, "1869," No. 9, also enclosed, applicable to Fence Districts, as therein provided.

"English Law Ordinance, 1867."

"Fence Ordinance, 1869."

"Game Ordinance, 1870."

3. The Preservation of Game, so far as is practicable in this colony, is provided for by the "Game Ordinance," which I forward.

4. No special observations seem necessary upon the provisions of these Ordinances.

I have, &c.,
(Signed) A. MUSGRAVE.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 5.

Enclosures in No. 5.

BRITISH COLUMBIA.

ANNO TRICESIMO VICTORIÆ REGINÆ.

No. VII.

AN ORDINANCE to assimilate the general Application of English Law.

[6*th March*, 1867.]

Preamble. WHEREAS it is expedient to assimilate the law establishing the date of the application of English law to all parts of the Colony of British Columbia:

Be it enacted, by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:

Repeals proclamation of 19th November, 1858. I. "The Proclamation having the force of law to declare that English law is in force in British Columbia," of the 19th day of November, 1858, is hereby repealed: provided however, that such repeal shall not affect any rights acquired, or liabilities incurred or existing before such repeal. But such rights and liabilities, civil and criminal, and all remedies and punishments thereunder, shall still, notwithstanding such repeal, be capable of enforcement and imposition as if this Ordinance had not been passed, but not further or otherwise.

Civil and criminal laws of England put in force. II. From and after the passing of this Ordinance the civil and criminal laws of England, as the same existed on the 19th day of November, 1858, and so far as the same are not from local circumstances inapplicable, are and shall be in force in all parts of the Colony of British Columbia: provided however, that in applying this Ordinance to that part of the Colony previous to the union known as British Columbia, the said civil and criminal laws, as the same existed at the date aforesaid, shall be held to be modified and altered, by all past legislation (of the said Colony of British Columbia, before the union, and of the Colony of British Columbia since the union) affecting the said Colony of British Columbia as it existed before the union:

Saving as modified by past legislation of British Columbia.

Saving as modified by past legislation of Vancouver Island. Provided also, that in applying this Ordinance to that part of the Colony heretofore known as the Colony of Vancouver Island and its dependencies, the said civil and criminal laws, as the same existed at the date aforesaid, shall be held to be modified and altered by all past legislation of the said Colony of Vancouver Island, and of the

whole Colony of British Columbia since the union affecting the former Colony of Vancouver Island and its dependencies.

North American Colonies.

III. The short title of this Ordinance is "The English Law Ordinance, 1867."

Short title,

Passed the Legislative Council the 15th day of February, A.D. 1867.

CHARLES GOOD, Clerk. ARTHUR N. BIRCH, Presiding Member.

Assented to, in Her Majesty's name, this 6th day of March, 1867.

FREDERICK SEYMOUR, Governor.

BRITISH COLUMBIA.

ANNO TRICESIMO SECUNDO VICTORIÆ REGINÆ.

No. IX.

AN ORDINANCE to provide for the Fencing of Land in British Columbia.

[1*st March*, 1869.]

WHEREAS it is expedient to provide for the proper fencing of lands in the Colony of British Columbia;

Preamble.

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:

I. It shall be lawful for the Governor, from time to time, for the purposes of this Ordinance, to divide the said Colony into districts, to be called Fence Districts, and alter the same from time to time as occasion may appear to require.

Governor may divide colony into fence districts.

II. A lawful fence shall be at least four feet nine inches high throughout, above the general surface of the ground, and substantially constructed of either stone, brick, earth, wood, or iron, or partly of any one or more of these materials; and if made of horizontal bars, boards, or rails, of wood or iron, shall consist of such dimensions so as not to leave more than six inches between the several bars or rails respectively, up to the height of three feet from the surface of the ground, and for the remainder of the fence not more than twelve inches between the said bars or rails: provided also, that any natural boundary, which shall be sufficient to prevent the passage of cattle into inclosures, shall be treated as a lawful fence.

Definition of a lawful fence.

III. In the event of cattle straying into lands within a fence district on the mainland of British Columbia, and into lands within or without a fence district in all other parts of the Colony, unprotected by a lawful fence so defined to be lawful as aforesaid, no trespass shall be deemed to have been committed, and no action for trespass shall be maintainable therefor, any law to the contrary notwithstanding.

No action for trespass on cattle straying into lands unprotected by lawful fence.

IV. If any cattle shall break into any ground enclosed by a lawful fence, the owner of such animal shall be liable to the owner or occupier of the enclosed premises for all damages sustained by such trespass, and if the trespass shall be repeated by neglect of the owner of such animal he shall for the second and every subsequent offence be subject to double the damage of such trespass to the owner or occupier of the said premises. The owner or occupier of the premises may impound every such animal, and shall advertise the same, with a sufficient description thereof, or give a written notice to the owner, if known; and if any animal so trespassing shall not be claimed, and the damages paid, together with the keep of such animal, and the cost of advertising such notice, within ten days from the publication of such notice, or of the delivery of the same to the owner of such animal if known, the owner or occupier of the premises shall be at liberty to sell the same by public auction, and repay himself out of the proceeds of such sale all damages done and expenses incurred for the keep, advertisement, and sale thereof; and the notice shall be given to the owner of every such animal, by advertisement or otherwise, within five days from the date of impounding, and if not so given no charge shall be made for the keep of such animal for more than five days.

Cattle breaking into land enclosed by a lawful fence, the owner liable for damages.

Cattle may be impounded,

and sold by public auction.

V. That in case there be no auctioneer within a convenient distance in any particular fence district, it shall be lawful for the Stipendiary Magistrate, or other Justice of the Peace for the district, to appoint a salesman for the purpose of selling cattle impounded for trespass; but such salesman shall not require an auctioneer's licence.

Magistrate may appoint salesman.

VI. If any dispute shall arise under this Ordinance, the same shall be adjudicated upon by the Justice of the Peace for the district wherein the same occurred, with the option of either party to claim a jury of five persons. The Justice of the Peace shall, for the

Disputes may be tried by jury.

NORTH AMERICAN COLONIES.

purposes of this Ordinance, have all the powers of a County Court Judge in this Colony in summoning and compelling attendance of witnesses and jurors, and awarding damages and costs, which damages and costs shall be recovered in the same manner as amounts due under judgments of the County Court.

Power to Justice] of the Peace to enforce decision.

VII. Except so far as otherwise provided by Section III. this Ordinance shall not be applicable to any district unless upon an application being made in writing to the Governor of the Colony of British Columbia, signed by at least two-thirds of the resident landowners or occupiers in such district, requiring the same to be applied to such district, and the Governor's proclamation of his assent thereto in the *Government Gazette* accordingly.

How fence districts may be created.

Interpretation clause.

VIII. In the construction of this Ordinance the word "Governor" shall be held to mean the Governor of this Colony for the time being, or other the officer administering the Government of this Colony for the time being; and whenever in this Ordinance in describing or referring to any person or party, matter or thing, any word importing the masculine gender or singular number is used, the same shall be understood to include and shall be applicable to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it otherwise be provided or there be something in the subject or context repugnant to such construction. The word "Cattle" shall extend to and include horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, sheeps, lambs, goats, pigs, mules, jennets, and asses.

Short title.

IX. This Ordinance may be cited for all purposes as "The Fence Ordinance, 1869."

Passed the Legislative Council the 2nd day of February, A.D. 1869.

CHARLES GOOD, Clerk of the Council.

WILLIAM A. G. YOUNG, Presiding Member.

Assented to, on behalf of Her Majesty, this 1st day of March, 1869.

FREDERICK SEYMOUR. Governor.

BRITISH COLUMBIA.

ANNO TRICESIMO TERTIO VICTORIÆ REGINÆ.

No. VI.

AN ORDINANCE entitled the "Game Ordinance, 1870." [20*th April*, 1870.]

Preamble.

WHEREAS it is expedient to protect game of various descriptions from being killed out of season, and to assimilate the law affecting such matters in all parts of the Colony of British Columbia;

Be it enacted, by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:

Repeals Ordinance of 1869.

I. The "Game Ordinance, 1869," is hereby repealed; but such repeal shall not cause to revive any Ordinance or Act repealed by the Ordinance hereby repealed.

When unlawful to have game in possession.

II. From and after the passage of this Ordinance it shall be unlawful for any person or persons to have game in his, her, or their possession in the City of Victoria, or of New Westminster, or in the town of Nanaimo, or of Esquimalt, or within the distance of one mile from any of the said cities or towns, or on board of any steam-boat, between the first day of March and the tenth day of August, in any year; or of venison, between the first day of February and the first day of August, in any year; or to collect or destroy the eggs of any grouse, quail, prairie-fowl, pheasant, or partridge.

Empowers Justices of the Peace to make search.

III. It shall be lawful for any Justice of the Peace upon information on oath that there is probable cause to suspect that a breach of the provisions of this Ordinance has been committed, or that game, venison, or the eggs of grouse, quail, prairie-fowl, pheasant, or partridge be or is likely to be on any premises, or on or about any person or persons within the City of Victoria, or of New Westminster, or within the town of Nanaimo, or of Esquimalt, or within the distance of one mile from any of the said cities or towns, or on board of any steam-boat in the harbour of Victoria, Esquimalt, or Nanaimo, by warrant under his hand and seal to authorize and empower any constable or police officer to enter and search such premises and to search such person or persons, at any time, and to seize all game, venison, and eggs aforesaid, wherever found: provided, that no such warrant shall continue in force after the ninth day of August in the year in which it shall have been issued.

Interpretation.

IV. In construction of this Ordinance, or of any information to be laid, or any warrant

to be issued under the provisions herein contained, the term "Game" shall be held to mean dead grouse, quail, prairie-fowl, pheasant, partridge, robin, lark, thrush, or wild-pigeon; and the term "Venison" shall be held to mean the carcass or any part of a dead deer or elk, or of the young thereof respectively. NORTH AMERICAN COLONIES.

V. Every infraction or evasion of this Ordinance shall be punishable, upon conviction, in a summary manner, before any Justice of the Peace in British Columbia, by a fine not exceeding fifty dollars for each separate offence, to be levied by distress, or in default of payment by imprisonment for any term not exceeding one month, at the discretion of the Justice of the Peace convicting. Declares penalties.

VI. Any person giving information leading to the conviction of any person under this Ordinance shall be entitled to receive one-half of any pecuniary penalty inflicted under this Ordinance. Information.

VII. In case of any summary conviction under this Ordinance, no warrant of commitment upon a conviction shall be held to be invalid by reason of any defect therein, if it be therein alleged that the person offending has been convicted, and there be a good and valid conviction to sustain the same. Conviction not to be invalid.

VIII. This Ordinance shall not apply to elk, deer, or the young thereof, respectively, killed before the first day of February in any year; or to grouse, quail, prairie-fowl, pheasant, or partridge, robin, lark, thrush, or wild-pigeon killed, or eggs collected, before the first day of March, in any year. Limits application of Ordinance.

IX. This Ordinance may be cited for all purposes as the "Game Ordinance, 1870." Short title.

Passed the Legislative Council the 13th day of April, A.D. 1870.

CHARLES GOOD,
Clerk of the Council.

PHILLIP J. HANKIN,
Presiding Member.

Assented to, in Her Majesty's name, this 20th day of April, 1870.

A. MUSGRAVE.
Governor.

WEST INDIAN COLONIES.

WEST INDIAN COLONIES.

No. 6.

No. 6.

JAMAICA.

[Not received.]

No. 7.

No. 7.

BRITISH HONDURAS.

COPY of a DESPATCH from Lieutenant-Governor CAIRNS to the OFFICER Administering the Government of Jamaica.

(No. 158.)

18 Vict. c. 22.
25 Vict. c. 16.
26 Vict. sess. 2, c. 6.

SIR, Government House, Belize, 16th September, 1870.

In compliance with the instructions contained in the Circular Despatch, dated the 2nd August last, from his Lordship the Secretary of State, I have the honour to forward copies of the enactments in force in this Colony relating to trespass. In order of date, they are the Act 18 Vict. c. 22, which, by section 7, declares all laws of universal application, relating to . . the possession of houses or lands, and trespasses or rights of action in respect thereof . . to be "laws of this settlement." The Act 25 Vict. c. 16, relates to enclosed or cultivated lands, and is criminal in its nature, as the penalties imposed are directed to be paid into the public chest, and not by way of compensation to the proprietor or occupier of the land; but this, as the Acting Attorney-General has pointed out, does not take away the Common Law right to bring an action for trespass. The Act 26 Vict. sess. 2, c. 6, provides for trespass on *personal property*, but is restricted to "beasts and boats;" of the former of which a very limited definition is given in the first clause.

2. With regard to the Preservation of Game, no local enactment has ever been passed with that object, and I do not think that the law of England relating thereto can be held to be applicable to a Colony in the condition of Honduras, there being yet no attempt or desire to preserve any kind of game on the part of the owners or occupiers of the land, or to interfere with the pursuit of it, conditionally, of course, on standing crops and other property being uninjured by proceedings taken in such pursuit.

I have, &c.,

His Excellency the Officer Administering the Government of Jamaica.
&c. &c. &c.

(Signed) W. W. CAIRNS.

Enclosures in No. 7.

18 VICTORIA, CAP. XXII.

AN ACT to declare the Laws in force in this Settlement.

[Passed the Legislature, February 7th, 1855. Received the Royal Assent; and proclaimed, March 8th, 1856.]

WHEREAS, after the first establishment of this settlement, and thenceforward to the passing of the Act "to amend the system of Government of British Honduras," which gave a new legislative constitution thereto, the inhabitants of the settlement, at public meetings from time to time assembled, and the executive magistrates in the magisterial courts, made and passed various rules, orders, resolutions and enactments adapted to the wants of the inhabitants, and which have always been regarded and acted on as the laws of the settlement, and as regulating the practice of the courts; and such rules, orders, resolutions and enactments have been preserved and recorded in the Record Office of this settlement:

And whereas many of the said rules and resolutions are now considered obsolete by disuse, and others have been from time to time altered, superseded or repealed, by similar rules, resolutions or enactments, or by proclamation by Her Majesty's Superintendent, but many of them remained in force at the time of the passing of the hereinbefore mentioned Act for amending the system of Government, and have since been acted on:

And whereas it is desirable that such of the said rules, resolutions and enactments as so continue to be acted upon in this settlement, and in the courts thereof, should be declared to be continuing rules and laws thereof, so far as they are at present used and continued therein:

Be it therefore enacted by Her Majesty's Superintendent, by and with the advice and consent of the Assembly, as follows:

Rules and orders of court still in use confirmed, subject to new rules.

I. That all rules, orders or resolutions made for the regulation and practice of the courts of this settlement, in so far as the same have not hitherto been altered, varied, or discontinued by any subsequent rule and practice of such courts, and in so far as the same are still continued to be used in the same courts, shall be and continue rules thereof, subject to any future alterations, in practice or otherwise, that may be made by any Act of this settlement, or by any rules of the said courts, or any constituted in lieu thereof, in pursuance of any such Act; and all other such rules for regulating the practice of the courts not continuing in present use as aforesaid shall be and are hereby declared to be abrogated.

Resolutions, &c. regulating original locations and "boundaries" confirmed and continued.

II. That all rules, orders, and resolutions regulating locations of logwood and mahogany works, and allotments of land shall, in respect of all locations and allotments appropriated thereunder prior to the practice of making "grants" in this settlement which began in the year One thousand eight hundred and seventeen, be and they are hereby declared valid and binding, in so far as they relate to and establish titles to such locations and allotments, where the titles to such locations and allotments have been recorded according to the laws of location of this settlement; and that all such rules, orders, and resolutions as regulate the measurement and boundaries of such locations and allotments shall still continue to regulate the same, as well with reference to the boundaries of such locations and allotments of contiguous "locations" as with reference to contiguous "grants" in the absence of any more express definition of such boundaries, or of any other law for the better regulation thereof.

Present possessions, if from 1840, of locations quieted.

Persons under disability protected.

III. That for quieting possessions of all such original locations, so formed in pursuance of those rules, orders and resolutions, and before the practice of making "grants," and for preventing disputes respecting the same, every person now in possession of any such original location, either as being the first occupant or appropriator thereof, or as claiming by devise, descent or purchase from such original occupant or appropriator, and who shall, by himself or the person through whom he claims, have been in quiet and undisturbed possession thereof since the first day of January, One thousand eight hundred and forty, shall have good right to such possession as against any grantee or other person whomsoever, excepting only infants and other persons under disability, whose rights are hereby protected.

Existing resolutions of a general or municipal

IV. That all other rules, orders, regulations and enactments of magistrates or of public meetings, of a permanent and municipal character, or intended as general laws of the settlement, which have not been revoked, altered, repealed, or superseded by any

similar rules, orders, or resolutions, or by any order, proclamation, or other Act of Her Majesty's Government, or of Her Majesty's Superintendent for the time being, or by any other law of this settlement, prior to or during the present session, and which have been acted on as permanent and continuing laws since the first day of January, One thousand eight hundred and fifty, shall be and continue, and are hereby declared to be, laws of this settlement, as completely as if they had been expressly re-enacted by any other law under the present constitution.

character, and which have been acted on since 1st Jan. 1850, confirmed.

And whereas it is desirable to declare what criminal and other laws of England are in force in this settlement:

Be it therefore enacted as follows, that is to say:

Common law in force, with certain qualifications.

V. That so much of the common law of England as has been used in or is applicable to this settlement and the inhabitants thereof, in so far as it is not at variance with any local law of this settlement, and all statutes of the Imperial Parliament in abrogation or derogation, or in any way declaratory of the common law, shall be and continue, and are hereby declared to be part of the laws of this settlement; but this shall not be held to confer or establish any freehold of office, all offices and appointments being held, as heretofore, during pleasure, and subject to all duties imposed upon the holders thereof by law.

Public general statutes relating to indictable offences, if applicable, &c., to be in force.

When such future laws to be in force.

Provisions as to certain statutes.

VI. That all statutes of the Imperial Parliament, of universal application, made and passed prior to the thirty-first day of December, One thousand eight hundred and fifty-four, and then in force, creating, relating to, or varying, any treason, felony, or indictable misdemeanour, or any trial thereof, or any sentence or punishment in respect thereof, in so far as the same are applicable or can be applied to this settlement and to the inhabitants thereof, and in so far as they are not at variance with any law of this settlement, and all statutes giving a concurrent summary jurisdiction in respect of any such indictable offences, shall be and are hereby declared to be laws of this settlement; and all future Acts of the Imperial Parliament of the like effect, and under the same qualifications, shall become laws of this settlement on and from the first day of January next after the passing thereof; but this is not extended to any statute creating a particular offence, and giving only a summary jurisdiction in respect thereof, or to any statute of a local or limited character only.

Statutes and general laws relating to particular subjects made in force in certain cases.

Proviso as to certain laws.

VII. That all laws of universal application, relating to evidence in courts of justice; to descents, inheritance, and succession; to wills and administrations; to the possession of houses or lands, and trespasses or rights of action in respect thereof; to the possession of personal chattels, and the devolution or alienation thereof, and all rights of action respecting the same; to all promises, contracts, and sales, and all frauds in respect thereof, or generally in relation to property; to principal and agent; to limitations of actions; to partnerships; to bailments; to lien and stoppages in transitu, and to general mercantile law, and to libel; and generally relating to rights of action and remedies, used and recognized in this settlement, in so far as they are applicable or can be applied to this settlement and the inhabitants thereof, and are not at variance with or qualified by any local law or recognized custom thereof, shall be, and the same are hereby declared to be, laws of this settlement; but this is not extended to any law of any local or limited operation, or to any law relating to bankruptcy or insolvency, or to any Act relating to customs or excise, or to any law relating to or regulating any trade, business, or profession.

Laws relating to powers or jurisdictions vested in the superintendent to be in force.

VIII. That all laws relating to any powers or jurisdictions given to or exercised by Her Majesty's Superintendent shall be laws of this settlement, in so far as they are necessary to carry out and confirm any such powers or jurisdictions.

Construction of such statutes.

Offences and causes of action.

Absence beyond seas.

IX. That in the construction of all such Acts of the Imperial Parliament as are herein declared to be laws of this settlement, they may for the purpose of their local operation, and so far as may be necessary for their enforcement, be read as if they had been made and passed in this settlement; and all offences and causes of action triable in any county in England, may be tried in the courts of this settlement; and all absence in places beyond the seas may be considered absence in places beyond the limits of this settlement.

Imperial statutes naming this settlement excepted.

X. That this Act is not intended to affect any statute of the Imperial Parliament in which this settlement is expressly named.

When Act to come in force.

XI. That this Act shall come into operation when Her Majesty's royal assent thereto has been proclaimed by the Superintendent in this settlement.

ANNO VICESIMO QUINTO VICTORIÆ REGINÆ.

25 VICTORIA, CAP. 16.

AN ACT to prevent Trespasses upon Property. [*March* 10*th*, 1862.]

WHEREAS it is necessary to provide for the prevention of trespasses upon property, and for the prompt and sufficient punishment of persons who may hereafter be convicted of committing such offences:

Be it therefore enacted by Her Majesty's Superintendent, by and with the advice and consent of the Legislative Assembly, as follows:

Trespassers in enclosed or cultivated grounds liable on summary conviction to penalty.

I. If any person, who shall hereafter commit a trespass by entering, not having any lawful business, on the premises of any private residence, or upon land belonging to any proprietor, or occupier, which is enclosed or in any manner cultivated, such person shall be liable to be summarily tried for such offence before any paid Justice of the Peace of the district in which the offence is committed, and on conviction shall forfeit and pay such penalty, not exceeding ten dollars, as to such Justice of the Peace shall seem meet, together with the costs, not exceeding two dollars four rials, of the conviction, such penalty and costs, in default of immediate payment, or in default of payment at such other time as the convicting Justice of the Peace may direct, to be recovered in manner hereinafter mentioned and provided.

Trespassers may be required to quit and give names, &c., or be apprehended.

And on conviction fined, &c.

II. If any person shall enter and trespass on the enclosed or cultivated land of any proprietor or occupier, it shall be lawful for such proprietor or occupier, or his servants, to require the person so trespassing forthwith to quit the premises or the land whereon he shall be trespassing, and also tell his christian name, surname, and place of abode, and in case such trespasser shall, after being required, refuse to tell his real name and place of abode, or shall give a false or illusory account of himself, or shall wilfully continue upon, or return to the said land or any part thereof, it shall be lawful for the proprietor, or occupier, and his servants, to apprehend such offender, and cause him forthwith to be taken or carried before any paid Justice of the Peace, of the town or district in which such offence is committed, and be summarily tried therefor, and such offender, on conviction thereof, shall forfeit and pay such penalty, not exceeding ten dollars, as to such Justice of the Peace shall seem meet, together with the costs of the conviction, such penalty and costs not exceeding ten dollars, or in default of immediate payment, or in default of such other payment, as the convicting Justice of the Peace may direct, to be recovered in manner hereinafter provided.

Persons trespassing on lands open or enclosed, with intent to steal or damage trees, &c., liable to be fined, &c.

III. From and after the passing of this Act, any person who shall enter on any open or enclosed land, with intent to steal, cut, break, root up, or otherwise damage or destroy, any tree, sapling, shrub, or underwood, plant, or grass, or any cocoa nuts, cahoun nuts, or other nuts, or fruit, used for the food of man or beast, or for medicine, dyeing, or distilling, shall be liable to be summarily tried for such offence before any paid Justice of the Peace for the district in which it shall or may have been committed, and on conviction thereof, upon the oath of one or more credible witnesses, shall forfeit and pay such penalty, not exceeding fifteen dollars, as to such magistrate shall seem meet, together with the costs, not exceeding ten dollars, of the conviction, such penalty and costs to be recovered in manner hereinafter expressed and provided, in case default shall be made in immediate payment, or in payment thereof at such other time as the convicting Justice of the Peace may direct.

Persons having no colour of title may be summarily removed from lands.

IV. If any person shall enter upon or occupy any lands belonging to or in the possession of any person, without the leave of the proprietor, or person in lawful possession thereof, it shall be lawful for any paid Justice of the Peace of the district in which the offence is committed, upon oath being made before him, charging any such trespasser with having, without any just claim or apparent title, entered upon and occupied, or taken possession of any such land, to summon such trespasser to appear before him, and he is hereby authorized and empowered, on conviction, to cause such trespasser to be removed from the possession of the said land, and to inflict such penalty, not exceeding fifteen dollars, upon such offender, as to him shall seem meet, together with the costs, not exceeding ten dollars, of conviction; such penalty and costs, in default of immediate payment, or of such other payment as the convicting Justice of the Peace may direct, to be recovered in manner hereinafter provided.

Parties aggrieved may appeal against the magistrate's decision.

V. If any person shall think himself aggrieved by any determination or adjudication of any paid Justice of the Peace, under the provisions of this Act, he may appeal from such to the Supreme Court, upon depositing, or giving security for any the payment of whatever penalty and costs adjudicated, and a further sum not exceeding fifteen dollars,

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to be determined in respect of deposit or security and amount by the said paid Justice of the Peace, to abide the result of the appeal; but such appeal and deposit must be made within one week from the date of the said adjudication and determination; and such appeal shall be heard, if possible, at the first ensuing monthly Court for hearing appeals, and the Appellate Judge may either send back the case for re-adjudication or originate and enforce in a summary manner his own judgment thereon, and direct such costs as may be proper, not exceeding fifty dollars.

Application of penalties.

VI. The penalties, or any of them, which are or may be recovered under this Act, shall be paid into the public chest.

On information on oath accused parties may be summoned, and on failing to appear may be arrested on warrant.

VII. On any complaint being made, and information upon oath laid, concerning any offence under this Act, by any credible witness or informer, before any paid Justice of the Peace of the town or district in which the offence shall be alleged to have been committed, it shall be lawful for such paid Justice of the Peace to require the person charged with such offence, by summons under his hand, to appear before him at a certain time and place, to be named in such summons, to answer such charge; and if any such person shall not appear, the paid Justice of the Peace may issue his warrant, under his hand, for the apprehension of the alleged offender.

Recovery of penalties and costs.

VIII. All penalties and costs imposed by the authority or under the provisions of this Act, shall be recovered in a summary manner by distress and sale of the offender's goods and chattels, by warrant of distress under the hand of the convicting Justice of the Peace; and in default of any goods and chattels whereon to levy, then it shall be lawful for such convicting Justice of the Peace to commit the offender to the nearest gaol for any space of time not exceeding thirty days, as such Justice of the Peace may direct, or until such penalty and costs be fully paid and satisfied.

Forms of convictions, warrants, and orders.

IX. When any conviction, warrant, or order shall be made, issued, or directed, under or by the authority of this Act, such conviction, warrant, or order shall be drawn up in manner and according to the form or forms set forth in the schedule to the Act passed by the Imperial Parliament in the twelfth year of Her Majesty's reign, entitled, "An Act to facilitate the Performance of the Duties of Justices of the Peace, out of "Sessions, in England and Wales, with respect to summary convictions and orders."

Construction of words.

X. In the construction of this Act, in cases where the singular number only is used, it shall be held and deemed as applicable to the plural and to several persons as well as to one person; when the masculine gender is used it shall be held and deemed as applicable to the feminine gender, as well as to the masculine; when the words proprietor or occupier, or either of them, is used, it shall be held to include and be applicable to tenants, lessees, procuration-attorneys and agents, as well as to proprietors or occupiers.

Saving of existing rights.

XI. Nothing contained in this Act shall be deemed or construed to take away or lessen any existing rights of the owners of cattle, by themselves or their servants, to pass on foot or on horseback on any unenclosed lands in search and pursuit of their cattle; or any existing right of persons to pass in and over such lands in pursuit of animals *feræ naturæ*; or any right of legally qualified surveyors, their labourers and servants, in the discharge of their professional duties, after having given the usual notice of intention to run lines or define boundaries; or any practice or right of persons, *bonâ fide* travellers, to encamp on the banks of rivers and lagoons, and remain there for limited periods: provided, that no such encampment shall take place on enclosed or cultivated lands.

Short title.

XII. In citing this Act, it shall be sufficient to use the words, "The Trespass "Prevention Act."

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26 VICTORIA, CAP. 6.

AN ACT for the Punishment and more effectual Repression of wilful Trespasses on certain personal Property. [20*th February*, 1863.]

WHEREAS it is desirable to prevent trespasses on personal property whereby the owners of the same frequently incur a total loss thereof, and are without remedy by reason of the inability of the wrongdoers to make compensation:

Be it therefore enacted by the Lieutenant-Governor, with the advice and consent of the Legislative Assembly, as follows:

Interpretation of "beast" and "boat."

I. In this Act the word "beast" shall include any horse, mare, colt, filly, pony, gelding, ass, mule, ox, and steer, and any other beast of draught or burden; and the

word "boat" shall include creaus, sloops, doreys, pitpans, and other small craft, and the term "possession" shall include a constructive as well as actual possession, and the right to possession.

II. It shall be unlawful for any person, knowingly, without the consent of the owner or person in possession of any beast or boat, to take any such beast or boat out of the possession of such owner or possessor, and any person so taking such beast or boat shall be guilty of an offence, and on summary conviction thereof, by one paid Justice of the Peace, or two other Justices of the Peace, shall be committed to the common gaol, there to be imprisoned with or without hard labour, as the convicting Justice or Justices shall determine, for any period not exceeding six calendar months.

III. The Justice or Justices before whom any person shall be convicted under this Act shall, in every case, ascertain and assess the amount of damage occasioned by the unlawful trespass, and of the costs incurred by the party aggrieved in and about the prosecution and conviction, and insert both amounts in the warrant of commitment.

IV. It shall be lawful for the jury on the trial of any person for the larceny of any such beast or boat, to acquit the person charged therewith of the felony, and to find him guilty of the offence of unlawful trespass hereby constituted, and for the Court, upon such conviction, to adjudge the person so convicted to be imprisoned in the common gaol, with or without hard labour, for any period not exceeding six calendar months; and the jury, on convicting any one of the offence of unlawful trespass under this Act, shall ascertain and assess the damage thereby occasioned to the person aggrieved, and the Clerk of the Court shall insert in the record of such conviction the amount of damage so assessed, and the amount of the costs of prosecution allowed by the taxing officer of the Court, and state both such amounts in the calendar of sentences.

V. Any person convicted under this Act, and sentenced to imprisonment, with or without hard labour, may and shall be released from custody under such sentence, on his paying or causing to be paid to the person in whose custody he shall be such sum for damages as shall have been ascertained and assessed by the committing Justice or Justices, or by the jury, and such further sum for the costs of prosecution and conviction as shall have been allowed by the committing Justice or Justices, or by the taxing officer of the Supreme Court, as the case may be.

VI. Any damages assessed, when received, shall be paid on demand to the person aggrieved; and any costs for the prosecution and conviction received, shall be paid into the public treasury for the use of the Government of this Colony.

VII. It shall be lawful for the Lieutenant-Governor, in the exercise of the Royal prerogative of mercy, to pardon any person convicted under this Act, notwithstanding that the damages assessed, and costs allowed, or either of them, may not have been paid, but such pardon shall not prejudice any right the party aggrieved may have to bring any action for such trespass.

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Taking beasts and boats out lawful possession—an offence, punishable on summary conviction, by imprisonment with or without hard labour.

Convicting Justice to assess the damages and costs, and insert amounts in the warrant of commitment.

On trial for larceny of beast or boat jury may acquit of felony, and find the accused guilty of the offence of unlawful trespass.

Damages and costs to be inserted in record and stated in calendar of sentences.

Persons convicted to be released from custody on payment of damages and costs.

Damages to be paid to party aggrieved—Costs, into Public Treasury.

Offenders may be pardoned altho' damages and costs are not paid, but such pardon not to prejudice right of action.

No. 8.

TURKS ISLANDS.

Copy of a DESPATCH from President CAMPBELL to the OFFICER Administering the Government of Jamaica.

(No. 101.)

Government House, Grand Turk,
15th October, 1870.

SIR,

According to instructions contained in Circular Despatch, dated 2nd August, 1870, Downing Street, I beg herewith to forward a statement of the Acting Queen's Advocate as to the laws in force in this Colony as to Trespass.

There are no laws having reference to the Preservation of Game in this Colony.

2. I do not find it necessary to make any observations on the lucid report of the Queen's Advocate (Acting).

I have, &c.,

His Excellency the Officer Administering the Government of Jamaica.

(Signed) MELFORT CAMPBELL,
President.

No. 8.

WEST INDIAN COLONIES.

Enclosure in No. 8.

Enclosure in No. 8.

REPORT on the Laws in force in the Colony of the Turks and Caicos Islands as to Trespass, and also as to the Preservation of Game.

Queen's Advocate's Office, Turks Islands,
10th October, 1870.

The only laws in force within this colony which give to Justices of the Peace a summary power of punishing Trespasses upon Real or Personal Property, are the Acts of 11 Victoria, cap. 3 (page 190 of the "Laws of the Turks and Caicos Islands"). This Act gives jurisdiction to a Justice of the Peace in actions of trespass where the amount of damages claimed does not exceed £5 sterling, and which, in cases of trespass to real property, involve no question of title to the land alleged to have been trespassed on. The provisions regulating these cases of petty trespasses are the same as those contained in the Act making provision for the recovery of small debts in the Colony, 10 Victoria, cap. 20 (page 189 "Laws of the Turks and Caicos Islands").

2. The next Act which confers a like summary power upon Justices of the Peace in cases of damage to real or personal property is the Act 5 William 4, cap. 10, sects. 12, 13, 14, 17, 18—29 ("Laws of the Turks and Caicos Islands," pages 202—206). This Act is entitled "An Act for the more effectual punishment of persons committing "malicious injuries to property," and the sections not cited refer to proceedings of a higher nature and to offences exclusively within the jurisdiction of the Supreme Court of the Colony, such as maliciously firing of woods, destroying churches, chapels, buildings, fire-engines, machinery, vessels, horses, cattle, &c. To all of which offences the English Statute Law as adapted to the Colony applies.

The civil action of trespass as existing in England, either for damage to real or personal property, is followed in this Colony whenever the case falls within the jurisdiction of the Supreme Court, which extends from £5 upwards.

3. The 28th and 29th sections of the "Bahama Act," 2 Victoria, cap. 5, provide for the unlawful killing or taking of pigeons and house doves, rendering the offender liable to pay £2 over and above the value of the bird; and for fish and turtle kept in private crawls or ponds the payment of a sum not exceeding £15, or three months imprisonment, with or without hard labour, at the discretion of the Justices ("Laws of the Turks and Caicos Islands," p. 219).

4. The Act, 9 Victoria, cap. 12 ("Laws of the Turks and Caicos Islands," pp. 283, 284), provides for the punishment by imprisonment with hard labour of any person being found on private lands between sunset and sunrise without being able to give a lawful excuse therefor.

5. There are no laws for the Preservation of Game, as it is only occasionally a few sand-pipers and plovers visit the Turks Islands. At certain portions of the Caicos Islands, however, wild fowl abound.

Submitted respectfully by

President Campbell,
&c. &c. &c.

(Signed) JOHN ARTHUR.
Queen's Advocate.

No. 9.

No. 9.

BRITISH GUIANA.

COPY of a DESPATCH from Governor SCOTT to the EARL of KIMBERLEY.

(No. 110.)

Government House, Georgetown,
20th September, 1870.

MY LORD,

I have the honour to acknowledge your Lordship's Circular Despatch of the 2nd ultimo, requesting me to furnish copies of any enactments in force in this Colony relating to Trespass, and also to the Preservation of Game.

2. I find that there is only one Ordinance in force in this Colony relating to Trespass, enacted as far back as the year 1850, and of which I beg to enclose a manuscript copy.

3. There are no Ordinances relating to the Preservation of Game.

I have, &c.,

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

(Signed) J. SCOTT.

Enclosure in No. 9.

Enclosure in No. 9.

BRITISH GUIANA.

No. XXXIII., 1850.

AN ORDINANCE for the more effectual Prevention of Wilful Trespass on Land and other Property.

WHEREAS it is expedient to make provision for the more effectual prevention of wilful trespass on landed or real property, and for the summary conviction of persons guilty of such trespasses:

What persons shall be deemed wilful trespassers.

1. Be it therefore enacted, by His Excellency the Governor of British Guiana, with the advice and consent of the Court of Policy thereof, that if any person shall wilfully trespass on any land, yard, garden, stelling, or premises, or in any canal, trench, or pond belonging to another person, or to any corporation or company, public or private, and on which, or near to which, there shall be stuck up on one or more conspicuous place or places a notice, in large legible letters, forbidding in general terms all persons to trespass, and warning them against the consequences of so doing; or if, in the absence of such notice, any person shall wilfully trespass as aforesaid, and shall refuse to quit upon request to him made by the owner, tenant, or occupier of any such land, yard, garden, stelling, premises, canal, trench, or pond, or by the agent or servant of any such owner, tenant, or occupier; every such person so wilfully trespassing, and all others aiding and assisting therein, shall be deemed to be wilful trespassers, and every such trespasser shall and may be seized and detained by any such owner, tenant, or occupier, agent or servant, or by any person whom he may call to his assistance, until such trespasser can be conveniently taken before a Justice of the Peace; and when any such trespasser shall be convicted before a Justice of the Peace, he shall forfeit a sum not less than four dollars and not exceeding twenty-four dollars: provided always, that every labourer, or other person, having or occupying any house or cottage, or any room in any house or cottage, on any plantation or settlement having an open path or road leading from the public road to such house, cottage, or room, and his relations, family, and visitors shall not be considered a trespasser or trespassers by passing along or upon such open path or road.

Canes, &c., found in possession of wilful trespassers.

2. And be it enacted, That if any trespasser aforesaid, at the time of his trespassing shall have or be in possession of any canes, coffee, plantains, bananas, fruit or vegetable production, similar in kind to any growing or being in or upon any such land, garden, or premises, or of any fish similar in kind to any then or immediately theretofore in any such canal, trench, or pond, it shall be lawful for the owner, tenant, occupier, agent, or servant as aforesaid to seize and detain all such canes, coffee, plantains, bananas, fruit or vegetable production, and fish, until such trespasser shall prove to the satisfaction of a Justice of the Peace that the same has not been taken or obtained out of or from such land, garden, premises, canal, trench, or pond, as aforesaid; and in the event of any such trespasser not proving to the satisfaction of such Justice that such canes, coffee, plantains, bananas, fruit or vegetable production, or fish, are or is his property, the same shall be delivered to such owner, tenant, or occupier, as aforesaid, to be by him disposed of as he may think fit: provided always, that nothing in this section contained shall prevent the conviction of every such trespasser in the penalties mentioned in Section 1 of this Ordinance.

Trespass on stellings.

3. And be it enacted, That if any person shall fasten any boat, batteau, punt, corial, vessel, craft, raft, or float, to any private stelling, wharf, or landing-place, or any part thereof, or shall bring, place, or put any boat, batteau, punt, corial, vessel, craft, raft, or float in any private trench or canal, whether the same be used or not for drainage or otherwise, or shall put or place any article whatsoever upon any such stelling, wharf, land, or landing-place, or in or over any such trench or canal on which or near to which there shall be stuck up a notice in large legible letters forbidding in general terms all persons to trespass, and warning them against the consequences of so doing without the leave of the owner or person in possession of such stelling, wharf, land, or landing place, trench, or canal, or without some pressing necessity, such person shall be deemed a wilful trespasser, and every such trespasser, boat, batteau, punt, corial, vessel, craft, raft, float, and article shall and may be seized and detained by the owner or person in possession of such stelling, wharf, land, landing-place, trench, or canal, or by his agent or servant, and complaint made to a Justice of the Peace, who, upon proof to his satisfaction, shall adjudge such person to be a wilful trespasser, and to forfeit a sum not less

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than four dollars, and not exceeding twenty-four dollars; and in the event of any damage being done to any such stelling, wharf, landing-place, trench, or canal, or of any penalty being imposed, such Justice shall order such boat, batteau, punt, corial, vessel, craft, raft, or float to be publicly sold within ten days thereafter, and out of the proceeds thereof shall pay to the owner, or person in possession of any such stelling, wharf, land, landing-place, trench, or canal, the amount of the damage by him had and suffered, and deduct the amount of such penalty inflicted upon any such trespasser, unless the amount of such damage and of such penalty shall be sooner paid.

Horses, &c., used in trespassing.

4. And be it enacted, That if any person so trespassing as aforesaid, shall carry, lead, or drive on the land, garden, stelling, or premises on which any such trespass is committed, any horse, mule, ass, or other animal, or shall put or place, or cause to be put or placed on any such land, garden, stelling, or premises, any cart, wheelbarrow, or other vehicle, any building materials, any tools or implements of any kind or description, any timber, firewood, or other wood, or any article, matter, or thing of any kind or description whatsoever, every such horse, mule, ass, animal, cart, wheelbarrow, vehicle, building material, tool, implement, timber, firewood, other wood, article, matter, or thing, shall and may be seized and detained by the owner, tenant, or occupier of any such land, garden, stelling, or premises, or by the agent or servant of any such owner, tenant, or occupier, and complaint made to a Justice of the Peace, who, upon proof to his satisfaction that any person trespassing as aforesaid has carried, led, or driven on the land, garden, stelling, or premises on which any such trespass is committed, any such horse, mule, ass, or animal, or has put or placed, or caused to be put or placed, on any such land, garden, stelling, or premises, any such cart, wheelbarrow, vehicle, building material, tool, implement, timber, firewood, other article, matter or thing, shall order the same to be publicly sold within ten days thereafter, and out of the proceeds of the sale thereof shall pay the amount of any damage by any such owner, tenant, or occupier had and suffered in virtue of any such trespass as aforesaid, and deduct the amount of such penalty inflicted upon any such trespasser, unless the amount of such damage and of such penalty shall be sooner paid.

Persons trespassing on lands covered with water.

5. And be it enacted, That if any person shall be found in or upon or shall enter in or upon any land, whether the same be covered with water or not, situate between high water mark and low water mark upon the bank of any river, creek or stream, or upon the sea coast in front of any plantation or estate, or land belonging to any private person, or to any corporation or company, public or private, on which or near to which there shall be stuck up a notice in large legible letters forbidding in general terms all persons to trespass and warning them against the consequences of so doing without leave of the owner, tenant, or occupier of such plantation, estate or land first had and obtained, and shall there destroy, ensnare, catch or take or attempt to destroy, ensnare, catch or take any fish, crabs, or other animals, every such person may be seized, detained, and conveyed by such owner, tenant, or occupier before a Justice of the Peace, and upon conviction thereof by such Justice shall be declared a wilful trespasser, and shall forfeit a sum not less than four dollars and not exceeding twenty-four dollars; and if at the time of committing such trespass any such person shall have with him any boat, batteau, punt, corial, vessel, craft, raft, or float, or any seine, net, fishing tackle of any kind or description, or other implements for destroying, ensnaring, catching or taking fish, crabs, or other animals, the same shall also be seized and detained by such owner, tenant, or occupier, and if such person shall be adjudged a wilful trespasser, such Justice shall order the same to be publicly sold within ten days thereafter, and out of the proceeds thereof shall pay the amount of any damage by any such owner, tenant, or occupier had and suffered in virtue of any such trespass, and deduct the amount of the penalty inflicted upon any such trespasser, unless the amount of such damage and of such penalty shall be sooner paid; and if at the time of the seizure of any such person trespassing as aforesaid he shall have any fish, crabs, or other animals, dead or alive, in his possession, the same shall be carried before such Justice as aforesaid, who, if such person shall not be able to prove that he caught or obtained such fish, crabs, or other animals at or from some other place than that upon which he was found trespassing, shall order such fish, crabs or other animals to be delivered to the owner, tenant, or occupier of such plantation, estate, or land, or to his agent or servant, to be disposed of as he may think fit.

Persons cutting wood, &c.

6. And be it enacted, That if any person shall be found in or upon or shall enter in or upon any land, whether the same be covered with water or not, situate between high water mark and low water mark upon the bank of any river, creek, or stream, or upon the sea coast in front of any plantation or estate or land belonging to the Crown, or to any corporation or company, public or private, or to any person, on which, or near to which, there shall be stuck up a notice in large legible letters forbidding in general

terms, all persons to trespass, and warning them against the consequences of so doing, without leave of the owner, tenant, or occupier of such plantation, estate, or land in front of which such land between high water mark and low water mark or upon the bank of any river, creek, or stream is situated first had and obtained, and shall there cut down, cut up, or gather any wood, timber, or tree, or any part of any wood, timber, or tree, whether the same be growing or fallen, or shall dig up, remove, or carry away any soil, caddy, sand, or shells, every such person may be seized, detained, and conveyed by such owner, tenant, or occupier, or by the agent or servant of any such owner, tenant, or occupier before a Justice of the Peace, and upon conviction thereof by such Justice shall be declared a wilful trespasser, and shall forfeit a sum not less than four dollars and not exceeding twenty-four dollars, and if at the time of committing such trespass any such person shall have any boat, batteau, punt, corial, vessel, craft, raft or float, or any axe, hatchet, cutlass, saw, or other tool or implement used for or capable of felling trees, or cutting up or splitting wood, or of digging, lifting up, removing, or carrying away any soil, caddy, sand, or shells, the same shall also be seized and detained by such owner, tenant, or occupier, or by the agent or servant of any such owner, tenant, or occupier, and complaint made to a Justice of the Peace, and such Justice shall order the same to be publicly sold within ten days thereafter, and out of the proceeds thereof shall pay the amount of any damage by any such owner, tenant, or occupier had and suffered in virtue of any such trespass, and shall deduct the amount of the penalty inflicted upon any such trespasser, unless the amount of such damage and of such penalty shall be sooner paid; and if such trespasser shall have ready for removal any timber, wood, soil, caddy, sand, or shells, the same shall be declared to be forfeited, and shall be delivered over by order of such Justice to the owner, tenant, or occupier of such plantation, estate, or land, or to his agent or servant.

Pulling down or obliterating notices.

7. And be it enacted, That if any person shall pull down, injure, or destroy any board or notice put up or affixed, as required by this Ordinance, for the purpose of forbidding and warning trespassers, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not less than twelve dollars, nor exceeding twenty-four dollars; and out of such penalty when recovered shall be paid by the Justice of the Peace the expenses attending the restoration of such board or notice (the amount of which expenses shall be determined by the Justice), and the balance, if any, shall be paid by such Justice into the colony chest.

Police and constables to render assistance.

8. And be it enacted, That every member of the police force, and every constable, shall assist in the arrest and apprehension of any trespasser whenever called upon by the owner, tenant, or occupier of any land, premises, garden, canal, trench, pond, selling wharf, or landing place on which such trespass shall take place.

What Justices to act under this ordinance.

9. And be it enacted, That every Justice of the Peace in this colony shall be and is hereby authorized to act under this Ordinance, and to entertain and adjudicate upon all matters brought before him under and by virtue of this Ordinance.

Title to lands not to be determined by Justices.

10. And be it enacted, That it shall not be lawful for any Justice of the Peace to determine any case of trespass in which it shall appear that the right or title in and to the lands, buildings, and premises wherein the trespass is alleged to have been committed, shall be at issue between the alleged trespasser and the party in possession.

Right of civil action preserved.

11. And be it enacted, That nothing herein contained shall prevent any person from proceeding by way of civil action to recover damages in respect of any trespass on his land or property, save and except that where any conviction shall have taken place under the provisions of this Ordinance for and in respect of any such trespass, no action at law shall be maintainable for the same trespass, but that such conviction shall be a bar to any such action, and may be given in evidence on the general issue or the contrary conclusion in the cause.

Mode and manner of proceeding on complaints.

12. And be it enacted, That (except as herein is otherwise provided) all fines, forfeitures, and penalties shall be complained of, and payment of the same recovered in manner and form provided and directed by Ordinance No. 30 of the year 1850, intituled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out "of Sessions within the Colony of British Guiana, with respect to summary convictions "and orders."

Interpretation clause.

13. And be it enacted, That in the construction of this Ordinance the word "month" shall be taken to mean a calendar month; every word importing the singular number only shall extend and be applied to several persons, matters, or things, as well as to one person, matter, or thing; every word importing the plural number shall extend and be applied to one person, matter, or thing, as well as to several persons, matters, or things; every word importing the masculine gender only shall extend and be applied to a female as well as to a male; the word "person" shall extend and be applied to any

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body politic, corporate, or collegiate, municipal, civil, or ecclesiastical, aggregate or sole, as well as to an individual, unless in any of the cases as aforesaid, it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Not to take effect unless allowed by Her Majesty.

14. And be it enacted, that this Ordinance shall not come into force nor take effect until Her Majesty's allowance of the same.

And that no ignorance shall be pretended of this our Ordinance, these presents shall be printed and published in the customary manner.

Thus done and enacted at our adjourned Assembly held at the Guiana Public Buildings, Georgetown, Demerara, this eighteenth day of December, one thousand eight hundred and fifty, and published on the second day of April, one thousand eight hundred and fifty-one.

By command of the Court.

(Signed) W. B. WOLSELEY, Acting Secretary.

No. 10.

No. 10.

BAHAMAS.

COPY of a DESPATCH from Governor Sir JAMES WALKER, K.C.M.G., C.B., to the EARL of KIMBERLEY.

(No. 459.) Bahamas, Government House, Nassau,

MY LORD, 22nd September, 1870.

I have the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 2nd ultimo, in which you desire me to forward copies of the Trespass and Game Laws in force in this colony.

2. I enclose a memorandum from the local Attorney-General, whom I requested to assist me in answering your Lordship's instruction. The Acts enumerated by Mr. Anderson will all be found in the bound volumes of the Bahama Laws in the library of the Colonial Office. There are no separate copies extant.

I have, &c.,

The Right Hon. the Earl of Kimberley. (Signed) JAMES WALKER.

&c. &c. &c.

Enclosure in No. 10.

Enclosure in No. 10.

ATTORNEY-GENERAL'S MEMORANDUM.

There is no statutory enactment in the colony relative to the Preservation of Game; but the entry on private land in pursuit of game constitutes a trespass on the same, and the like manner as any other entry without legal excuse.

2. The statutory enactments on the subject of Trespass are comprised in the following Acts of Assembly:

(1st.) 6 Wm. 4, cap. 7. For the summary punishment of persons destroying standing woods, &c., by the careless use of fire.

(2nd.) 3 Vict. cap. 2. To provide a summary remedy against the occupation of land by persons having no title to the same; and 3 Vict. cap. 37, 7 Vict. cap. 13, and 8 Vict. cap. 4, to amend 3 Vict. cap. 2.

3. The provisions of this Code of Laws are aimed against the class usually designated "squatters," persons who set themselves down on lands without having any title to them. The original Act was passed in accordance with the recommendation of the Home Government on the abolition of slavery.

(3rd.) 21 Vict. cap. 18. For more effectually providing for the detection and punishment of persons cutting timber, wood, or bark off lands without licence.

(4th.) 22 Vict. cap. 12. To provide for the impounding of cattle roaming at large.

The foregoing Acts will be found in the 1st vol. B. L. edition of 1862, pp. 536 to 549.

(5th.) 25 Vict. cap. 29. To afford protection to the owners of cattle depasturing on certain lands at Inagua, 2 vol. B. L., p. 183; and lastly, the Criminal Statute 28 Vict. cap. 31, 2 vol. B. L., p. 66, relating to

malicious injuries to property. This last-mentioned Act is similar not only in principle but in detail to the English statute on the same subject. The other Acts were passed to meet local circumstances and requirements, and have been found beneficial in their working.

(Signed) G. C. ANDERSON,
Attorney-General.

16th September, 1870.

No. 11.

TRINIDAD.

[Not received.]

No. 12.

BARBADOS.

COPY of a DESPATCH from Governor RAWSON, C.B., to the EARL of KIMBERLEY.

(No. 121.)
Windward Islands, Barbados,
24th September, 1870.

MY LORD,

I have the honour to enclose a copy of a report of Mr. Acting Attorney-General Packer, containing the information desired by your Lordship's Circular Despatch of 2nd ultimo, relating to the laws in force in this colony as to Trespass and the Preservation of Game.

I have, &c.,
(Signed) RAWSON W. RAWSON,
Governor.

The Right Honourable
The Earl of Kimberley,
&c. &c.

Enclosure in No. 12.

The law of Trespass in this colony is the Common Law of England, and there are no local Acts on the subject as regards the superior courts, with the exception of the Act of the 21st June, 1838 (No. 152), which limits the amount of costs in actions of trespass quare clausum fregit, where the damages given by the jury do not exceed forty shillings old currency, or about twenty-six shillings sterling money.

There are two Acts, one dated 19th March, 1836 (No. 113), the other dated 16th October, 1841 (No. 188), giving summary jurisdiction to police magistrates and Justices of the Peace in cases of trespass by cattle damage feasant.

There is also the Act of 22nd September, 1869, giving jurisdiction to police magistrates in cases of trespass where the damages claimed do not exceed ten pounds, and the Act of the present session amending this Act.

There is no game in Barbados, and consequently there are no laws for its preservation.

(Signed) CHARLES PACKER,
Solicitor-General.

WEST INDIAN COLONIES.

No. 13.

No. 13.

ST. VINCENT.

COPY of a DESPATCH from Lieutenant-Governor BERKELEY to Governor RAWSON, C.B.

(No. 65.) Government House, Saint Vincent,
8th October, 1870.

SIR,

28th Sept., 1870.

In answer to the Secretary of State's Circular Despatch of the 2nd August, I have the honour to transmit a memorandum by the Attorney-General containing the information respecting the laws as to trespass, and stating that no laws exist as to the preservation of game. It appears to me that no observations are necessary in addition to those contained in the enclosure.

I have, &c.,
(Signed) GEORGE BERKELEY.

His Excellency Governor Rawson, C.B.
&c. &c. &c.

Enclosure in No. 13.

Enclosure in No. 13.

NOTE on the Circular Letter of the EARL of KIMBERLEY dated 2nd August, 1870.

The general law respecting trespass (on lands) is the same in St. Vincent as in England.

The law as respects costs is regulated by the Imperial statutes 43 Eliz. chap. 6; 22 & 23 Car. II. chap. 9; 8 & 9 Wm. III. chap. 2. The later statutes (of Her present Majesty) do not extend to this Colony.

In addition, the local law provides that persons trespassing on houses or lands after having been requested to depart, or repeating such trespasses after being warned not so to do, shall be liable, on summary conviction before a magistrate, to pay a fine not exceeding two pounds, or to imprisonment not exceeding one month (Act No. 320, sect. 76).

Enclosure. § 76, Act 320.

A local Act also regulates the law respecting damage done to lands by the trespass of animals (Act No. 148).

There are no laws in force in this Colony for the preservation of game.

I assume (from the terms of the Circular) that it was not intended to inquire into the law of trespass as it affects the person or goods of another.

St. Vincent, 28th September, 1870. (Signed) J. CHOPPIN,
Attorney-General.

[A true copy,] (Signed) EDWARD LABORDE, Colonial Secretary.

ACT No. 320, SECTION 76.

Preamble.

Punishment of persons committing petty trespasses, although no special or sensible damage may be committed.

76. And whereas, it sometimes happens that illegal, annoying, offensive, and aggravating petty trespasses are committed tending to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, and for which no other remedy exists than an action at law: Be it enacted, that if any person shall commit any trespass by entering the house, room, lodging, land, or premises of any other person, and shall continue therein or thereon after having been requested to depart, or shall repeat such trespass after being warned not so to do, every such person being convicted thereof shall be deemed guilty of a petty offence, and shall pay a fine not exceeding the sum of two pounds, or be imprisoned for any time not exceeding one month, or pay such fine and be so imprisoned, although no special or sensible damage may be committed by such person so trespassing as aforesaid: Provided always, that nothing herein contained shall authorize any two or more Justices of the Peace to hear, try, and determine any case of petty trespass in which any question shall arise as to the title of any lands, tenements, or hereditaments, or any interest therein or accruing therefrom, or any execution under the process of any court of justice.

Proviso. As to cases in which any question of title shall arise.

NOTE.—Act No. 148 not to be had in single (or separate) copies. It is to be found in the bound volume of the Laws of St. Vincent lodged at the Colonial Office in 1863.

No. 14.

GRENADA.

[Not received.]

No. 15.

TOBAGO.

COPY of a DESPATCH from Lieutenant-Governor KORTRIGHT to Governor RAWSON, C.B.

(No. 41.) Government House, Tobago,
15th October, 1870.

SIR,

In compliance with the commands of the Secretary of State, I have the honour to transmit herewith two Acts at present in force in this Colony with respect to trespass. Circular, 2nd August, 1870.

The Act assented to in 1835 relates only to trespasses committed by animals.

There are in my opinion several objections to the Act.

The power to impound on private grounds appears to me to be open to much abuse. I believe that animals taken up for trespass are rarely supplied with food and water, and I think the fees that can be demanded far too high—namely, four shillings for the trespass of a horse, a head of horned cattle, a mule or an ass; and in addition, one shilling and sixpence for every twenty-four hours they may remain impounded. A lesser rate is chargeable for sheep. Goats and pigs may be destroyed.

The obstacle I see to the establishment of public pounds is that, unless very numerous, there would be danger of injury to stock by their being over-driven long distances. It would, I believe, be wise to reduce considerably the sum that may at present be claimed for trespass, and to have any actual damage assessed and paid for. I have not the slightest doubt that very frequently stock are removed from their owners' lands for the purpose of exacting the fee. A measure was before the House of Assembly last session for amending the Act, but the session closed before it could be printed. The other Act, 17 Vict. cap. 3, applies, I believe, only to trespasses committed by individuals. I have no remarks to make respecting this law.

There are no laws in this colony relating to the preservation of game.

I have, &c.,

His Excellency Governor Rawson, C.B. (Signed) C. H. KORTRIGHT.
&c. &c. &c.

Enclosure in No. 15.

TOBAGO.

AN ACT for the prevention of Trespasses in the said Island.

WHEREAS the Act entitled "An Act for regulating Trespasses," and which was revived by an Act of the Legislature of this island, passed on or about the fifteenth day of March, One thousand seven hundred and ninety-four; and also the Act entitled "An "Act to alter and amend an Act for regulating Trespasses," passed on or about the nineteenth day of July, One thousand eight hundred and fifteen; and also the Act

Preamble.

WEST INDIAN COLONIES.

entitled "An Act to amend an Act entitled An Act for regulating Trespasses, and a "certain other Act, entitled An Act to alter and amend an Act for regulating "Trespasses," passed on or about the twentieth day of August, One thousand eight hundred and nineteen, have been respectively repealed by an Act of the present session of the Legislature of this island, from and after the thirty-first day of December now next ensuing: And whereas it is expedient that the said respective Acts should be consolidated and amended: We therefore, your Majesty's most dutiful and loyal subjects, his Excellency Major-General Henry Charles Darling, Lieutenant-Governor and Commander-in-Chief in and over the Island of Tobago and its dependencies, the Council and General Assembly of the same, do humbly pray your most excellent Majesty that it may be enacted:

Clause I. Enactment.

And be it and it is hereby enacted by the said Henry Charles Darling, by and with the advice and consent of the said Council and General Assembly in session assembled and by the authority of the same, that this Act shall commence and come into operation on the first day of January, in the year of our Lord One thousand eight hundred and thirty-five.

Clause II.

And be it and it is hereby enacted by the authority aforesaid, that every owner, renter, possessor or person having the charge of any plantation or estate, lots, pieces or parcels of land in the said island, are hereby authorized and empowered to take up or cause to be taken up any stray horse, horned cattle, mules, asses or sheep trespassing in and upon any part of such plantation or estate, lots, pieces or parcels of land, and impound them until the owner or owners of such stray horse, cattle, mule, asses or sheep, shall pay for the damage they may have committed; and it shall and may be lawful for such owner, renter, possessor, or person having the charge of any plantation or estate, lots, pieces or parcels of land as aforesaid, to demand and receive, and the owner or owners or other person or persons claiming any such stray horses, cattle, mules, asses or sheep, are hereby required to pay, at and after the rates following, that is to say, four shillings sterling per head for the trespass by each horse, head of horned cattle, mule or ass, and one shilling per head for the trespass by each sheep, and one shilling and sixpence for each horse, head of horned cattle, mule or ass, and sixpence per head for each sheep, for every twenty-four hours they shall so remain impounded; and any person working any horse, cattle, mule or ass during the time they are so impounded shall forfeit, to the person or persons to whom the same belong, the sum of five pounds, to be recovered before any Justices of the Peace of the said island; and the person impounding such stock shall provide and cause them to have a sufficient quantity of food and water; and in case any stock shall die for want of due care, such person so impounding them shall be liable to pay the owner double the value of all such stock so dying for want of due care as aforesaid, and notice shall be given to the owner or owners of such stock (if known) within twenty-four hours after the same shall have been so impounded; and if the person or persons impounding such stock shall fail, neglect or refuse to give such notice as aforesaid, he, she, or they shall forfeit the rates hereinbefore directed to be paid for the stock so impounded.

Persons impounding stock to give notice within twenty-four hours to the owner.

Clause III. Persons whose grounds have been seriously damaged may apply to have damage surveyed.

And be it and it is hereby enacted by the authority aforesaid, that it shall and may be lawful to and for all and every such person and persons upon whose plantations or estates, lots, pieces, or parcels of land, any horse, horned castle, mule, ass or sheep, shall be found trespassing, or who shall have impounded such stray stock, and shall not think the rates hereby established sufficient to indemnify him or her for the damage that may have been committed, to apply to the next nearest Justice of the Peace, who shall issue his warrant, directed to any three neighbouring persons of respectability, to view the damage that may have been done, and to settle the value thereof, and make a return of such value in three days to him, upon oath; and such Justice shall give notice to the owner of such stock, if known, of the time and place of such valuation, twelve hours before the same shall take place, and if the damages so appraised shall not be paid within forty-eight hours after the return of such valuation, the said Justice is hereby further authorized and required to issue his warrant in the nature of an execution, directed to any sworn constable, to levy the amount of such appraisement, with the charges, on the goods, chattels, or other effects of the owner or owners of any such stock so trespassing; and the said constable is hereby authorized and required to expose the said goods, chattels, or other effects so levied on to sale at public outcry, under the same regulations, restrictions, and conditions as are appointed for the sale of goods and chattels of defendants taken in execution by the Provost Marshal of this island; and it shall and may be lawful for such constable to take and deduct the same fees as the said Provost Marshal may in like cases legally take, receive, and deduct; and any Justice, appraiser or constable neglecting or refusing to do and perform the several

Owner of stock to have notice of intended survey twelve hours before.

Penalty how enforced, &c.

matters and things by this Act required of them, upon proof thereof shall for every such neglect or refusal forfeit to His Majesty, his heirs and successors, if a Justice of the Peace or appraiser, the sum of ten pounds, and if a constable the sum of two pounds: Provided that nothing in this clause contained shall prevent or be construed to prevent the party whose property may have been damaged from seeking his or her remedy at law, in lieu of the proceedings hereby established.

Clause IV. Unclaimed stock to be publicly sold.

And whereas the owners of such stock found trespassing may not be known, and they may be suffered to lie so long impounded that the expense of keeping them and the damage they may have committed may be more than equal to their value: Be it therefore and it is hereby enacted by the authority aforesaid, that if any such stock as aforesaid shall not be claimed within eight days next and immediately after they may have been so impounded, the person so impounding them may, and he or she is hereby required to advertise such stock in one of the public papers of this island, for the space of eight days, describing each of them as near as may be; and if such stock is not or are not then claimed and full satisfaction made for the damages and expenses in manner as by this Act is already directed, it shall and may be lawful for such person or persons so impounding, at the expiration of the said eight days, to cause such stock to be sold at public outcry, and the money arising from such sale shall be applied towards defraying the said expenses and damages, and the surplus, if any, shall be deposited in the public treasury of this island, until the owner or owners of such stock shall appear and prove his, her, or their property; but if the same shall not be proved within six months after the same shall have been lodged, then such surplus shall be forfeited to the use of the colony for ever.

Clause V. Stock having any disease to be shot.

And be it and it is hereby enacted by the authority aforesaid, that if the person or persons taking up and impounding such stock shall have reason to believe that any such stock has the distemper called the glanders, or any other contagious disorder, in any such case such person or persons is and are hereby empowered and strictly required to call upon any three neighbouring persons of respectability to examine such stock, and if they or any two of them are of opinion that the distemper is the glanders or of a contagious kind, and shall certify the same in writing, upon oath, the person or persons impounding such stock are hereby empowered and strictly required, immediately to cause such horse, mule or ass to be shot, and the body to be buried a sufficient depth or towed out to sea.

Clause VI. Wild and dangerous cattle, hogs, and goats trespassing may be shot while trespassing.

Owner may have the body if claimed within two hours after they are killed, and pay the damages down.

And be it and it is hereby enacted by the authority aforesaid, that it shall and may be lawful for all owners, renters, possessors or persons having the charge of any plantation or estate, pieces or parcels of land in the said island, and for their respective servants to kill and destroy any wild or dangerous cattle, or any hogs or goats found trespassing upon their lands, and the heads shall become the property of the person so killing them as aforesaid; and if any wild or dangerous cattle, or any hogs or goats shall be killed while so trespassing, the owner may have the bodies thereof if claimed within two hours after they are killed and paying for any damage that may have been committed, but if not claimed within the time aforesaid, or if the owner shall refuse to pay for any damage that may have been committed, then the bodies shall become the property of the person killing them or of any other person who will take them away; and if any person shall be sued or prosecuted for such killing, he, she, or they may plead the general issue, and give this Act in evidence; but if any person shall wilfully or intentionally kill, wound, maim, or destroy any horse, cattle or stock (wild or dangerous cattle, hogs and goats only excepted), although found in trespass, such person or persons shall, on proof thereof, forfeit and pay the owner or owners of any such stock so killed, wounded, maimed or destroyed, double the value of the same: Provided always, that nothing herein contained shall be construed to prevent the killing of any sheep found in the streets or lots in the towns of Scarborough and Plymouth as is by law now allowed.

Clause VII. Penalty for rescuing impounded stock.

And be it and it is hereby enacted by the authority aforesaid, that any person or persons who shall rescue and drive away, or shall attempt to rescue and drive away any such stock when going to be impounded for trespass done or damage committed, or shall attempt to rescue or take out of any pound any stock that may be actually impounded, and shall be thereof convicted before any Justice of the Peace of the said island, upon the oath of one or more credible witness or witnesses, shall for each and every such offence forfeit and pay double the value of the damage done or trespass committed, or in default of paying the same, shall be committed to the common gaol of the said island, for any time not exceeding thirty days.

Clause VIII. Fines, penalties, &c., under

And be it and it is hereby enacted by the authority aforesaid, that all fines, penalties, and forfeitures imposed by this Act, shall be recovered and levied on the goods and

WEST INDIAN COLONIES.

chattels of the defaulter by warrant of distress, under the hand and seal of any Justice of the Peace of the said island, and when not otherwise directed, shall be paid into the public treasury of the said island, for the uses of the colony.

this Act how to be recovered.

Passed the House of General Assembly, this 13th day of November, 1834.

JAMES JOHNSTON,
Speaker of the House of General Assembly.

JAMES NICHOLSON,
Clerk of the Assembly.

Passed the Board of Legislative Council, this 27th day of November, 1834.

W. T NICHOLSON,
President of the Legislative Council.

JOHN THORNTON,
Clerk of the Council.

By order of his Excellency the Governor-in-Chief, conveyed to me in his Despatch of 16th instant, I assent to this Bill.

HENRY C. DARLING,
Lieutenant-Governor.

Tobago, 26th January, 1835.

Duly proclaimed by me, this 26th January, 1835.

C. I. LEPLASTRIER,
Dep. Pro. Marshal-General.

God save the King.

TOBAGO.

17 VICTORIA, CAP. 3.

AN ACT to afford Summary Redress in cases of Minor Trespass.

WHEREAS, it is deemed expedient to give the Police Magistrates and Justices of the Peace Jurisdiction in cases of Minor Trespass where the damages do not exceed the sum of Forty shillings, Be it therefore enacted by the Governor, Council, and General Assembly of Tobago and its dependencies, that in all cases of Trespass committed on lands, tenements, or hereditaments, if the party or parties aggrieved shall claim damages not exceeding the sum of Forty shillings, and no question of title to lands shall arise in the course of the proceedings, it shall and may be lawful for the party aggrieved to prefer his, her, or their complaint before any Police Magistrate, or Justice of the Peace, who shall reside in the district in which such trespass shall have been committed; and such

Jurisdiction given to police magistrates and Justices of the Peace in cases of trespass on lands, &c., for damages not exceeding 40*s*.

Police Magistrate, or Justice of the Peace, in this island shall have full power and authority for hearing and determining such complaint, and to award a sum not exceeding Forty shillings and costs to be paid by the party committing such trespass or trespasses to the party or parties aggrieved, and in the event of the non-payment of the award and costs the Police Magistrate, or Justice of the Peace hearing and determining such complaint, is hereby authorized and empowered forthwith to issue an execution under his hand and seal, to be directed to a chief constable, and the same proceedings shall be had thereunder for levying and raising the sums therein directed to be levied and raised, as if such execution had issued from the Court of Common Pleas of this island:

Proviso.

Provided nevertheless, that every such Chief Constable shall sell all goods and chattels by him levied upon within five days after the levy thereof, and lands and tenements within twenty days after such levy thereon, public notice in each case being first given of the day of sale by posting a written notice or notices thereof on some conspicuous place or places in the town or parish where any such levy shall have been made, any law, statute, or usage to the contrary thereof in any wise notwithstanding; and that no person or persons whomsoever, who shall be committed to prison under and by virtue of any execution issued under the authority of this Act shall be kept or continued in custody for any longer space of time from the time of his or their commitment to prison than twenty days:

Proviso.

Provided also, that any party proceeding under this Act shall be barred thereby from proceeding for the same trespass by an action at law; and this Act may be pleaded in bar, and given in evidence to any such action;

Proviso. Execution at any time of the year.

and provided also, that any execution under the authority of this Act shall and may be executed and levied at any time of the year.

2. And be it enacted, that the following docket of fees shall be and the same is hereby established as the amount which the several Police Magistrates, Justices of the

Establishes docket of fees.

Peace, and Chief Constables acting under this Act, shall be respectively entitled to demand and receive from all and every persons and person complaining under this Act (that is to say):

The Police Magistrate, or Justices of the Peace, for every information or Affidavit	Two shillings.
The Police Magistrate, or Justices of the Peace, for every summons	One shilling.
The Police Magistrate, or Justices of the Peace, for every warrant	Two shillings.
The Police Magistrate, or Justices of the Peace, for every execution	Four shillings.
The chief constable for serving any summons, if at a distance of one mile, and not more than three miles from the place of residence, or business, of such chief constable	One shilling.
For every additional mile	Four pence.
For executing warrant, if a distance of one mile, and not more than three miles from the place of residence, or business, of such chief constable	Two shillings.
For every additional mile	Six pence.
For levying and execution, whether property levied on be sold or not..	Ten shillings.
For keeping personal property in custody for each day ..	One shilling.
For feeding any live stock levied on for each day	Eight pence.

Any person proving himself to be not guilty or paying the fine upon conviction, to be released from all further proceedings.

3. And be it enacted, that if any person against whom any such complaint shall have been preferred for any such trespass shall have obtained a certificate of not guilty, or justification, or having been convicted shall have paid the whole sum, and costs, awarded to be paid under such conviction, or shall have satisfied the execution issued for non-payment thereof in every such case, he shall be released from all further or other proceedings, civil or criminal, for the same cause.

Not to interfere with rights of persons to pass through the customary path leading to the villages.

Proviso.

Proviso.

4. And be it further enacted, that this Act shall not interfere with, or be construed to affect the rights of any person or persons to pass or repass orderly and quietly through and along the customary path leading from the public highways to the villages or cottages adjacent: Provided nevertheless, that nothing contained in this Act shall be deemed to affect the title or freehold of any proprietor, or proprietors, in any such path: Provided also, that this Act shall not be deemed or construed to give to any person or persons any right of way to which such person or persons would not be entitled if this Act had not passed.

Not to interfere with certain Acts of the Imperial Parliament.

5. And be it enacted, that nothing in this Act contained shall be construed to interfere with or prevent the operation of an Act of the Imperial Parliament, passed in the sixth year of the reign of His late Majesty King William the Fourth, entitled "An Act to "make Provision for the better Administration of Justice in certain of His Majesty's "West India Colonies," or to interfere with or prevent the operation of a certain other Act of the said Parliament, passed in the thirteenth year of the reign of Her present Majesty, and entitled, "An Act to authorize the Establishment of Courts of Appeal for "certain of Her Majesty's West India Colonies," or in any manner or wise to abridge, affect the rights, powers, and authorities vested in Her Majesty by such Acts, or either of them.

What shall be deemed and taken to be a district within the meaning of this Act.

6. And be it enacted, that each of the three divisions into which the said island is divided, under an Act entitled "An Act to divide the said Island of Tobago into three "Benefices, or Cures, and to provide a Support for the Clergy of the said Island," shall be deemed and taken to be a district within the meaning and for the purposes of this Act.

Passed the Board of Legislative Council this 1st day of April, 1853.

EDWARD D. SANDERSON,
President of the Legislative Council.

ALBERT ALLOM,
Acting Clerk of Council.

Passed the House of General Assembly this 26th day of April, 1853.

FRED. C. KEENS,
Clerk of Assembly.

R. DOUGLAS,
Speaker of the House of General Assembly.

Tobago, 25th June, 1853.

WEST INDIAN COLONIES.

In accordance with the Despatch of His Excellency the Governor in Chief, No. 166, dated the 14th June, I assent to this Bill.

HENRY YEATES,
President Adming. the Govrt.

Duly proclaimed this 27th day of June, 1853.

CHARLES I. LEPLASTRIER,
Provost Marshal General.

God save the Queen.

No. 16.

No. 16.

ST. LUCIA.

COPY of a DESPATCH from the ADMINISTRATOR of the Government to Governor RAWSON, C.B.

(No. 49.) Government Office, St. Lucia,
SIR, 24th September, 1870.

I have the honour to acknowledge the receipt of the Secretary of State's Circular Despatch dated the 2nd of August, 1870, and which was forwarded to me by your Excellency on the 17th instant, requesting to be furnished with copies of any enactments in force in this Colony as to Trespass and also as to the Preservation of Game, and to accompany them with any observations which may be considered necessary in order to render them intelligible.

2. The only enactment in force in this Colony relating to trespass is contained in the Justice of the Peace Ordinance of the 14th of June, 1857, section 10 ("Laws of St. Lucia," page 303). A copy of the section is enclosed. We have no loose printed copies of the Ordinance.

3. The Acting Attorney-General, to whom I referred for information on this subject, states that a civil action in regard to trespass may be brought before the Royal Court where the damages claimed exceed fifteen pounds, and before the Court of Requests where they are fifteen pounds or under. But that the only fine or penalty existing in the matter is that provided for in the section referred to in the case of a wilful trespass in any field, garden, &c., or other enclosure, and only when the person trespassing neglects or refuses to leave such place after having been warned to do so.

4. There is no law in force in this island regulating the preservation of game.

I have, &c.,
MACNAMARA DIX,
Administrator of the Government.

His Excellency Rawson W. Rawson, C.B.,
Governor-in-Chief,
&c. &c.

Enclosure in No. 16.

Enclosure in No. 16.

JUSTICE OF THE PEACE ORDINANCE, 14TH JUNE, 1851.

Section 10.

And be it enacted, that any person who shall wilfully trespass in any field, garden, pleasure ground, wood, or plantation, or other enclosure, and shall neglect or refuse to leave any such place after they shall have been warned to do so by the owner, or tenant in occupation of any such place, or by the care-taker or servant of such owner, or tenant, or who shall repeat such trespass within one month from the time when such warning shall have been so given to him, shall, on conviction thereof before one or more Justice or Justices of the Peace, be liable to a fine not exceeding Ten shillings, and in default of payment thereof at such time as the said Justice or Justices shall direct, shall be liable to be imprisoned for a term not exceeding one week: Provided always, that nothing herein contained shall prevent any person from maintaining any civil action or suit for any such trespass, instead of proceeding under this Ordinance.

No. 17.

No. 17.

ANTIGUA.

COPY of a DESPATCH from Governor SIR BENJAMIN C. C. PINE to the EARL of KIMBERLEY.

(No. 153.)

Leeward Islands, Antigua,
5th October, 1870.

MY LORD,

With reference to your Lordship's Circular Despatch of the 2nd August on the subject of the laws in force in Antigua as to Trespass, and also as to the Preservation of Game, I have now the honour to transmit printed copies of the following Acts, viz.:

An Act to repress Trespasses of Stock.

An Act to consolidate and amend the Statute Law of Antigua relating to malicious injuries to property.

2. The 39th and 40th clauses of the latter Act relate to trespasses by persons on lands.

3. There are no laws in force in Antigua for the Preservation of Game.

I have, &c.,
(Signed) BENJAMIN C. C. PINE, Governor.

The Right. Hon. the Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 17.

Enclosures in No. 17.

ANTIGUA.

No. 204.

An ACT to Repress Trespass of Stock. [*I assent*, STEPHEN J. HILL.]

BE it enacted by the Governor, the Council, and Assembly as follows:

1. The several pounds in use at the passing of this Act shall as public pounds continue to be public pounds, and shall from time to time be repaired at the public expense, under the order and direction of the vestry of the parish in which such pound shall be situate. — Public pounds in use. Repairs.

2. A pound-keeper shall be appointed to each by the vestry of the parish in which such pound is situate, with a salary to be paid by the parish: and such pound-keeper shall be removable at the discretion of such vestry. — Appointment of pound-keeper.

3. The several pound-keepers in office at the passing of this Act shall continue to act for the term of their appointment, as if this Act had not been passed. — Acting pound keepers continued in office.

4. It shall be lawful for the proprietor, possessor, or person in charge of any plantation, estate, or other land, to cause any horse, mule, ass, ox, or other cattle, or any sheep, goat, or swine, which shall be found trespassing on such plantation, estate or land, to be captured and impounded in the pound of the parish in which such trespass shall be committed. — Animals trespassing may be impounded.

5. The pound-keeper to whose custody any animal shall be committed shall, with all convenient speed, give notice, in writing, of the impounding of such animal to the owner, if the owner be known, and for such notice shall be entitled to the sum of one shilling. — Notice of impounding to be given by pound keeper. Notice fee.

6. The following fines, exclusive of the notice fee and allowances, shall be payable to the pound-keeper, that is to say: for the release of every horse, mule, ass, ox, or other cattle, a fine of four shillings—three-fourths of which shall be paid by the pound-keeper to the person impounding the same, and one-fourth shall be retained by the pound-keeper, as a compensation for securing the same, with an allowance of one shilling per day for feeding the same; and for the release of every sheep, goat, or swine, a fine of two shillings shall be paid, three-fourths of which shall be paid by the pound-keeper to the person impounding the same, and one-fourth shall be retained by the pound-keeper as a compensation for securing the same, with an allowance of four pence per day for feeding the same. — Fines and allowances for the animals impounded.

7. If any horse, mule, ass, ox, or other cattle so impounded, shall not be redeemed within five days after such impounding, or if any sheep, goat, or swine, so impounded shall not be redeemed within three days after such impounding, the same, at the expiration of the five or three days, as the case may be, shall be sold by public outcry at the — Sale of animals impounded.

nearest city, town, or village, and the proceeds arising from the sale thereof, after deducting the notice fee, fine, and allowances, and two shillings as and for expenses attending the sale, shall be paid by the pound-keeper to the owner of the animal so sold, and in case no application by or on behalf of the owner shall be made within twenty-one days after such sale shall have taken place, the said proceeds shall be paid to the Treasurer on the public account.

Disposal of proceeds of sale.

Punishment of pound keeper for not providing food and water, or giving notice.

8. If any pound-keeper shall fail to provide sufficient food and water for any animal impounded, or shall fail to give notice, if notice be practicable, of such impounding, he shall, on conviction thereof before a police magistrate, be liable to a penalty not exceeding ten pounds, and on non-payment thereof, to be imprisoned in the common jail for any period not exceeding thirty days.

Animals trespassing may be impounded on plantation, &c.

Duty of proprietor of plantation.

9. It shall be lawful for the proprietor, possessor, or person in charge of any plantation, estate, or other land, to cause any horse, mule, ass, ox, or other cattle, sheep, goat, or swine, found trespassing on the same, to be impounded on such plantation, estate, or other land, and such proprietor, possessor, or person shall, with all convenient speed, give notice in writing to the owner thereof, or to his attorney or agent, if known, of such impounding, and if the fine and allowance hereinbefore made payable upon the release of any such animal from the public pound, together with the further sum of one shilling for the notice aforesaid, shall not be paid within forty-eight hours after the delivery of such notice, it shall be lawful for such proprietor, possessor, or person in charge, to insert an advertisement in one of the public newspapers, offering the animal so impounded for sale, and after seven days from the appointed day of publication of such newspaper, to proceed to sell the same by a constable, at the nearest city, town, or village, and such proprietor, possessor, or person in charge, shall, in the first place, out of the proceeds of the sale, pay to the constable, as a compensation for his trouble, the sum of two shillings and eight pence, and shall retain out of the balance of the said proceeds the notice fee, fine, and allowance hereby authorized, and the cost of the advertisement, and shall pay the surplus, if any, to the owner of the animal sold, on his application for the same, and if there shall be no such application, or if the owner shall not be ascertained within seven days from the day of such sale, then such surplus shall be paid into the treasury, on the public account, and if the animal so impounded cannot be identified as particular property, the party impounding shall advertise the same for sale at least seven days before the sale thereof, and shall, in such advertisement, accurately describe such animal, and state the time and place of impounding the same, and the period and place of such intended sale; and the surplus proceeds, if any, of such sale, after making the deductions aforesaid, shall be paid into the treasury, and if such surplus shall not be claimed by the owner within thirty days, the same shall be applied to the credit of the public: Provided always, that if any proprietor, possessor, or person in charge of any plantation, estate, or other land, shall fail to provide sufficient food and water for any animal so impounded, or shall fail to give notice, if notice be practicable, of such impounding, he shall, upon conviction thereof before a police magistrate, be subject to a penalty not exceeding ten pounds, and on non-payment thereof, to be imprisoned in the common jail for any period not exceeding thirty days.

Advertisement.

Sale of animal.

Disposal of proceeds.

Penalty on proprietor of plantation failing to provide food and water.

Illegal impounding or capture of animals.

10. Any person who shall illegally impound, or illegally capture for the purpose of impounding, any animal as aforesaid, shall, on conviction thereof before a police magistrate, upon testimony other than that of the owner of the animal so impounded or captured, be liable to a penalty not exceeding five pounds, and on non-payment thereof to be imprisoned in the common jail for any period not exceeding thirty days. And it shall be lawful for such magistrate to award the penalty imposed upon the offender to be paid to the owner of the animal so illegally impounded or captured, and in the event of the non-payment of the penalty so imposed, to order and direct the release of any animal so impounded upon payment of the owner thereof, to the pound keeper, of any expense which shall have been incurred for securing and feeding the same.

Rescue of animals impounded.

11. Any person who shall rescue, or attempt to rescue any animal impounded, or about to be impounded under the authority of this Act shall, on conviction thereof before a police magistrate, be liable to a penalty of not more than five pounds, or in the discretion of the magistrate may be imprisoned in the common jail, with or without hard labour, for any time not exceeding one calendar month, and in either case the magistrate may also award to the party aggrieved a sum equal to the aggregate sum which he would have been entitled to receive upon the release of such animal, and upon non-payment thereof the party so offending shall be committed to the common jail, with or without hard labour, for a period not exceeding thirty days.

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Compensation not exceeding £10 may be recovered before magistrate when fines inadequate.

12. Any proprietor, possessor, or person in charge of any plantation, estate, or other land, who shall consider the fines hereinbefore authorized an inadequate compensation for damage sustained, and shall not claim a sum exceeding ten pounds in respect to the damage committed, may prefer his complaint to the police magistrate of the district, who is hereby authorized to adjudicate upon such complaint in the manner of any other complaint under the Act, "to Facilitate the Performance of the Duties of Justices of the "Peace, with respect to Summary Convictions and Orders," and the police magistrate may award any sum by way of compensation, not exceeding ten pounds, to the party aggrieved, besides costs, and in default of payment it shall be lawful for the magistrate to commit the offender to the common jail, with or without hard labour, for any period not exceeding three months.

Damage by wild cattle.

13. If any damage shall be committed by the trespass of cattle, which cannot by reason of their wildness be impounded, and which cannot be identified as particular property, it shall be lawful for a police magistrate, upon application of the proprietor or possessor of land sustaining such damage, or his agent, and proof upon oath of the facts aforesaid, to issue his warrant to such proprietor, or possessor, or his agent, authorizing such proprietor, or possessor, or his agent, to shoot or otherwise destroy such cattle, while in the act of trespassing, but not otherwise, and if upon such shooting or destroying, the cattle shot or destroyed shall be identified as particular property, notice in writing of such shooting or destroying shall be given by the proprietor or possessor of land, or his agent, to the owner of the animal shot or destroyed, within twelve hours of such identification, and for the omission of such notice such proprietor, possessor, or agent shall, upon conviction before a police magistrate, be liable to a penalty not exceeding ten pounds, and if the owner of such animal shall not remove the carcass within twelve hours after the receipt of such notice, or if the owner shall not be identified, such carcass shall be considered as abandoned by the owner, and shall be deemed the property of the party aggrieved.

Goats, swine, dogs and feathered stock, trespassing, may be destroyed.

Notice thereof.

14. It shall be lawful for any proprietor, possessor, or other person in charge of any plantation, estate, or other land, to shoot or otherwise destroy any goat, swine, dog, or feathered stock, which shall be found trespassing upon any such plantation, estate, or other land, and if upon such shooting, or destroying, the goat, dog, swine, or feathered stock, shot or otherwise destroyed, shall be identified as particular property, notice in writing of such shooting or destroying shall be given by the proprietor or possessor of land, or his agent, to the owner of the animal or stock shot or destroyed, within twelve hours of such identification; and for the omission of such notice, such proprietor, possessor, or agent, shall, upon conviction thereof before a police magistrate, be liable to a penalty not exceeding two pounds, and if the owner of such animal or stock shall not remove the same within twelve hours after the receipt of such notice, or if the property cannot be identified, the same shall be considered as abandoned and be deemed the property of the party aggrieved.

Removal of such animal or stock.

Party aggrieved by trespass may, instead of destroying such animal or stock, apply to police magistrate for redress.

15. The party aggrieved by the trespass of any animal or stock in the last section mentioned may, instead of shooting or destroying any such animal or stock, prefer his complaint to a police magistrate, who shall adjudicate thereon as in the case of a complaint preferred under the "Act to facilitate the Performance of the Duties of Justices of "the Peace with respect to Summary Convictions and Orders," and the police magistrate may award to the party aggrieved any sum not exceeding ten pounds, besides costs, to be recovered as in the case of compensation of costs awarded in malicious injuries to property, and in default of payment, it shall be lawful for the police magistrate to commit the offender to the common jail with or without hard labour for any period not exceeding one month.

Appropriation of fines and penalties.

16. All fines and penalties, other than moneys payable to the party aggrieved or specially appropriated under this Act, shall be payable to Her Majesty, her heirs and successors, for the use of the Colony.

Repeal of No. 993.

17. The Act entitled, "An Act to repeal an Act entitled, 'An Act for regulating "'Trespasses,' together with another Act entitled 'An Act for amending a certain Act of "'this Island, entitled 'An Act for regulating Trespasses, and to substitute other Provi-"'sions in regard to Trespasses in lieu thereof,'" shall be, and the same is hereby repealed except as to any trespass committed before the passing of this Act, which shall be dealt with as if this Act had not been passed.

18. And whereas certain public lands contiguous to the poor-house and common jail, bounded to the east by lands of Henry Liggins, Esquire, to the north by the high road, to the south by the high road, and to the west by East Street, are exposed to frequent trespasses of horned cattle and other animals, and it is expedient to repress the same.

Be it enacted that it shall be lawful for the master of the poor-house and the keeper

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of the common jail respectively, and any person authorized to act on their behalf respectively, to impound such horned cattle and other animals found trespassing upon the said lands; and all and singular the enactments, powers, and provisions hereinbefore enacted and contained in relation to such trespasses of horned cattle, and other animals, upon lands which are private property, shall be, and the same are hereby declared to be, applicable and in force in relation to such trespasses of horned cattle and other animals upon the said public lands.

Animals trespassing on certain lands may be impounded by master of poor house and jail keeper.

Dated at Antigua the third of December, in the year of our Lord One thousand eight hundred and sixty-three, and in the twenty-seventh year of Her Majesty's reign.

OLIVER NUGENT,
Speaker.

Passed the Assembly the third day of December, One thousand eight hundred and sixty-three.

O. HUMPHRYS,
Acting Clerk of the Assembly.

Passed the Council this third day of December, One thousand eight hundred and sixty-three.

By command,
EDWIN D. BAYNES
Clerk of the Council.

Duly published at Antigua, this fourth day of December, One thousand eight hundred and sixty-three.

JAMES B. THIBOU.
Provost-Marshal.

ANTIGUA.

SECTIONS 39 AND 40 OF NO. 193.

AN ACT to consolidate and amend the Statute Law of Antigua, relating to Malicious Injuries to Property.

Unlawfully remaining on land after being warned to depart.

39. Whosoever shall unlawfully persist in coming or remaining upon any plantation, lands, or premises after being warned not to come thereon, or to depart therefrom, shall on conviction thereof before a police magistrate at the discretion of the magistrate either be committed to the common jail, there to be imprisoned only, or be imprisoned and kept to hard labour for any term not exceeding two months, or else shall forfeit and pay such sum of money not exceeding five pounds as to the magistrate shall seem meet.

Persons committing damage to any property in any case not previously provided for may be committed or fined and compelled by a police magistrate to pay compensation not exceeding £5.

Application of the money awarded.

40. Whosoever shall wilfully or maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on conviction thereof before a police magistrate, at the discretion of the magistrate either be committed to the common jail, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding two months, or else shall forfeit and pay such sum of money not exceeding five pounds as to the magistrate shall seem meet, and also such further sum of money as shall appear to the magistrate to be a reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of five pounds, which last mentioned sum of money shall, in the case of private property, be paid to the party aggrieved; and in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in the same manner as every penalty imposed by a police magistrate under this Act, and if such sums of money, together with costs, if ordered, shall not be paid either immediately after the conviction, or within such period as the magistrate shall at the time of the conviction appoint, the magistrate may commit the offender to the common jail there to be imprisoned only, or to be imprisoned and kept to hard labour, as the magistrate shall think fit, for any term not exceeding two months, unless such sums and costs be sooner paid: Provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in shooting, fishing, or in the pursuit of game, but that every such trespass shall be punishable in the same manner as if this Act had not passed.

Not to extend to certain cases herein named.

No. 18.

MONTSERRAT.

[Not received.]

No. 19.

ST. KITT'S AND NEVIS.

Copy of a DESPATCH from Administrator Wigley to Sir Benjamin C. C. Pine.

(No. 123.)

Sir, St. Christopher, 24th September, 1870.

I have the honour to acknowledge receipt of the Secretary of State's Circular Despatch, dated the 2nd August, calling for copies of any enactments in force in these Colonies as to Trespass, and also as to the Preservation of Game.

2. I enclose copies of the Trespass Acts in force in these Islands; and have to state, for his Lordship's information, that no Act for the Preservation of Game exists.

I have, &c.,

(Signed) F. SPENCER WIGLEY.

His Excellency Sir B. C. C. Pine.
&c. &c. &c.

Enclosures in 19.

No. 98.

An Act to regulate the Impounding of Stock, to give Remedies to Parties injured by the trespassing of such Stock, and to make other Provisions connected therewith.

[*Dated 1st April*, 1851.]

Whereas it is necessary to make further provisions for the prevention and punishment of trespasses by stock: We, your Majesty's most dutiful and loyal subjects the Officer administering the Government of your Majesty's Islands of Saint Christopher and Anguilla, and the Council and Assembly of the same, do pray your most excellent Majesty that it may be enacted:

1. [Repeals former Acts.]

2. And be it enacted, That the several pounds established in the respective parishes of this island, are hereby continued, and declared to be the lawful pounds of the said several parishes respectively. *Continues pounds already established.*

3. And be it enacted, That the several keepers of the said pounds are hereby declared to be the lawful keepers of the same, invested with all the powers and authorities, and subject to all the pains, penalties, and forfeitures of pound-keepers under this Act, as hereinafter mentioned. *Also the pound-keepers*

4. And be it enacted, That whensoever any of the said several pounds now established in this island shall be discontinued as such pound, and as often as occasion shall from time to time require, there shall be provided within each of the several parishes of this island, at the public expense, a good and sufficient pound for the same. *Proper pounds shall be established.*

5. And be it enacted, That every pound-keeper now or hereafter to be appointed, shall

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hold his office during his good behaviour only, and may be removed from his office by the Officer administering the Government, and in all cases of vacancy hereafter happening, the Officer administering the Government is hereby authorized and empowered to appoint some fit and proper person to fill the office of pound-keeper for the parish in which such vacancy may occur.

Pound-keeper may be removed by the officer administering the Government, and another appointed.

Pound-keepers so appointed shall enter into bond.

6. And be it enacted, That every person hereafter appointed pound-keeper shall, before entering on the duties of his office, enter into a bond to Her Majesty, her heirs and successors, with two good and sufficient sureties, to be approved of by the Colonial Secretary for the time being, in the penalty of fifty pounds sterling money, conditioned for the due care and protection of the stock committed to his care or impounded, to be recovered by due course of law, at the suit of any person aggrieved, and for his, her, or their benefit, to the extent of such grievance, which said bond shall be lodged by the pound-keeper entering into the same, in the said secretary's office, with a fee of four shillings and twopence to the said secretary, to be paid by the pound-keeper lodging the same; and the said secretary shall duly record the said bond, and shall furnish the said pound-keeper with a certificate of his having received the said bond and fee, and such certificate shall be a sufficient warrant to the pound-keeper whom it may concern, to enter upon the execution of the duties of his said office: Provided always, that nothing herein contained shall be construed to invalidate the several bonds already executed by the pound-keepers heretofore appointed, and their respective securities, but that the same shall be and remain in full force and operation, anything herein contained to the contrary notwithstanding.

Present bonds to be valid.

In case of pound-keeper's death, constable to assist his representatives.

7. And be it enacted, That in case of the death of any pound-keeper, any two Justices of the Peace acting for the district wherein such vacancy may occur, shall, in case of necessity, appoint some constable or policeman to aid and assist the representatives or sureties of such deceased pound-keeper to perform the duties of pound-keeper, until such vacancy be filled up as hereinbefore directed.

Stock straying in public roads or streets shall be taken to the pound.

8. And be it enacted, That whensoever any stock shall stray into or trespass, or shall be found at large, or unlawfully staked, or otherwise unlawfully tied or confined upon any land, it shall be lawful for the person or persons aggrieved thereby to cause the said stock to be taken to the pound of the parish in manner hereinafter mentioned; and whensoever any stock shall be found straying at large in any of the public streets, highways, squares, or other places, it shall be lawful for any person, and every constable and policeman is hereby expressly required and directed, on view thereof, to cause the said stock to be taken to the pound of the parish in manner hereinafter mentioned.

Stock staked in any road shall be taken to the pound.

9. And be it enacted, That whensoever any stock shall be found staked or tied in any of the public roads or streets, or so near to any public road or street that such stock may run into any road or street, it shall be lawful for any person, and every constable or policeman is hereby expressly required and directed, on view thereof, to cause the said stock to be taken to the pound of the parish in manner hereinafter mentioned.

Tying or otherwise maliciously confining stock.

10. And be it enacted, That any person unlawfully and maliciously staking, tying, or otherwise unlawfully and maliciously confining or depasturing any stock upon any lands, shall, on complaint of the person aggrieved, and any person so staking or tying, confining or depasturing any such stock in manner aforesaid, on or near any public road or highway, shall be liable, on conviction thereof before any two Justices of the Peace, to pay a fine not exceeding five pounds, or to imprisonment for any term not exceeding three calendar months.

Penalty.

Goats and swine and feathered stock trespassing, and doing actual damage, may be destroyed.

Goats and swine found at large in the streets may be destroyed.

Duty of the police to destroy.

Notice to be given to owners to remove carcasses.

Carcasses not to be mutilated.

11. And be it enacted, That whensoever any goat or swine shall stray and trespass and be at large and untethered upon any land, and shall otherwise be unlawfully at large thereon found doing actual damage, or whensoever any feathered stock shall be found doing actual damage in any garden or other cultivated ground, it shall be lawful for the owner or possessor of any such land, or for his, her, or their agent or agents, servant or servants, to destroy the same: and whensoever any goat or swine shall be found at large in any of the public streets, highways, squares, or other places, it shall be lawful for any person, and every constable and policeman is hereby required and directed, on view thereof, to destroy the same: Provided always, that immediate notice be given to the owner or owners thereof to remove the carcass or carcasses, and in case the owner cannot be found, or, being found, neglects or refuses to remove the same within three hours after such notice given, then the owner or owners of such land, or such person, constable or policeman, as aforesaid, are hereby authorized and required to bury the said carcass or carcasses: Provided always, that such carcass or carcasses shall not in any manner be cut up, divided, or mutilated, further than may be actually necessary for destroying the same; and any person who shall unnecessarily and wantonly cut up, divide, or mutilate any such carcass, shall, on conviction thereof before any two Justices

of the Peace, be liable to pay a fine not exceeding twenty shillings, or to imprisonment for any term not exceeding one calendar month.

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Stock taken up to be sent to the pound with all convenient speed, with a statement of the particulars of impounding, which shall be entered in a book to be kept by the pound-keeper.

Such book to be open to inspection.

12. And be it further enacted, That whensoever any stock shall be taken up as hereinbefore mentioned, the same shall, with all convenient speed, be sent to the pound of the parish in which the stray or trespass shall take place, with a statement in writing of the name of the person impounding the same, together with the cause of such impounding; and every pound-keeper shall keep a book, in which shall be entered the name of every person impounding such stock, with the name of the person taking or delivering the same, the date of such stock being received into such pound, the description of the stock, and the alleged cause for impounding the same, together with the name of the person redeeming or releasing such stock from the pound, and the amount paid for such release, or for the sale, or disposal of the proceeds of such sale, as hereinafter mentioned; and the said book shall be open to the inspection of any person concerned in the impounding or releasing of such stock, or of any Justice of the Peace, from six o'clock in the morning to six o'clock in the evening of every day, without any fee or reward.

Pound-keeper to provide provender for stock impounded, and be entitled to receive the fees, &c.

Penalty on pound-keeper for neglecting to provide sufficient provender and water for stock impounded.

13. And be it further enacted, That the said pound-keepers shall provide for such stock so impounded as aforesaid all necessary provender and water, and shall be entitled to have and receive the fees mentioned in the Schedule appended hereto, and such fees shall attach and become a primary lien on the stock impounded.

14. And be it enacted, That any pound-keeper who shall neglect or refuse to provide all such necessary provender and water as aforesaid, for any and all stock which he shall from time to time receive into his pound, shall, on conviction before any two Justices of the Peace, forfeit and pay to the owner or possessor of any stock aggrieved thereby, any sum, in the discretion of such Justices of the Peace, not exceeding the sum of twenty shillings in respect of all stock for the receiving of which such pound-keeper shall be entitled to receive the sum of four shillings, and not exceeding the sum of five shillings per day in respect of all stock for the receiving of which such pound-keeper shall be entitled to receive the sum of one shilling per day.

Pound-keeper within twenty-four hours to give notice to owners of stock of the same being impounded.

15. And be it enacted, That every pound-keeper, after the impounding of any stock, shall, within twenty-four hours, give notice to the owner or owners of the said stock, if such owner or owners is or are known, and if such owner or owners is or are not known, shall, on the expiration of the said twenty-four hours, put up a notice on some conspicuous part of the pound, that such stock is impounded, in which notice shall be contained a full description of the stock so impounded.

Penalty on pound-keepers for abusing or ill-treating stock.

16. And be it enacted, That if any pound-keeper shall abuse, ill-treat, or injure any stock delivered to him to be impounded, such pound-keeper shall forfeit and pay for every such offence to the owner or possessor of any such stock, upon conviction thereof before any two Justices of the Peace, any sum not exceeding five pounds sterling: Provided always, that it shall be competent for any such owner or possessor to proceed by any suit at law in respect of any such offence, instead of proceeding before such two Justices of the Peace, if he should claim a higher recompense in respect of such offence or offences.

Penalty on pound-keeper admitting stock into the pound without making the entry required, &c.

17. And be it enacted, That if any pound-keeper shall admit any stock whatever into his pound, without such statement as aforesaid, or shall omit to make such entry of the same, and of the ultimate disposal of such stock, in the book to be kept by him for such purpose as aforesaid, or shall make any false entry therein, or shall neglect or refuse to produce such book, and to exhibit the entries made therein to any person lawfully requiring him so to do, or shall ask or receive any other or greater fee for the impounding of any stock than is set forth in the Schedule to this Act annexed, or shall bribe or offer to bribe any person or persons unlawfully to bring any stock to the pound, or shall omit to give or exhibit (as the case may be) such notice as aforesaid, such pound-keeper shall, on conviction thereof before any two Justices of the Peace, forfeit and pay any sum not exceeding the sum of twenty pounds, or be imprisoned in the common gaol for any time not exceeding the space of three calendar months.

Persons unlawfully impounding stock liable to penalty.

18. And be it enacted, That any person who shall take up and impound any stock not trespassing upon his, her, or their lands, or upon the lands of his, her, or their employer or employers, and unsanctioned or unauthorized by the owner or possessor of such land, or any person who shall otherwise unlawfully take up and impound any stock whatsoever, shall, on conviction thereof before any two Justices of the Peace, forfeit and pay such sum of money as shall appear to such Justices to be a reasonable compensation for all loss, damages, and expenses, not exceeding the sum of five pounds, which may have been sustained by the owner or possessor of any such stock so unlawfully impounded by reason of the same, which sum shall be paid to the party aggrieved: Provided always, that it shall be competent for any such owner or possessor to proceed

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by any suit at law in respect of such offence, instead of proceeding before such two Justices of the Peace, if he should claim a higher recompense in respect of such offence.

Certain acts committed by persons taking up or conveying stock to the pound made punishable.

19. And be it enacted, That any person who shall take up any stock, and shall detain the same upwards of twenty-four hours previous to impounding the same, or shall send any stock so taken up to any other than the pound of the parish in which the same shall have been taken up, or any person who shall, while taking any such stock to any pound ride upon any of the same, or shall wantonly beat or ill use any of the same, shall, on conviction thereof before any two Justices of the Peace, forfeit and pay a fine not exceeding the sum of twenty shillings, or be imprisoned for any space of time not exceeding one calendar month.

Defines the meaning of the word "Stock."

20. And be it enacted, That for the purposes hereinbefore mentioned, the word "stock" shall be construed and is hereby declared to mean all feathered stock, such as fowls, turkeys, peafowls, guinea-birds, and geese, and all and singular horses, mares, geldings, colts and fillies, mules and asses, bulls, cows, oxen, heifers and calves, rams and wethers, ewe sheep and lambs, goats and kids, hogs and pigs, and shall be meant and understood to mean one or more, masculine or feminine, as the case may be, of any of the said sorts of stock.

On Saturday in each week the pound-keeper to expose for sale all such stock as shall have been detained in the pound, &c.

21. And be it further enacted, That on Saturday in each and every week, at the hour of twelve o'clock at noon, each of the said pound-keepers shall put up and expose to public sale in front of his pound, and in the presence of six credible witnesses, all stock which may have been impounded and detained in his pound for more than seven days, exclusive of the day of sale of the same, and shall sell and deliver the same to the highest bidder, on receiving the amount of his or her bid, and such pound-keeper shall, from and out of such amount so received by him, in the first place deduct and retain all such sum and sums of money as shall be payable to him for his fees for receiving, impounding, feeding, and giving notice, and after deduction thereof, shall forthwith pay

Distribution of the sum obtained by the sale of the stock.

to the person or persons by whom such stock shall have been impounded the amount which shall in manner hereinafter provided be awarded to him, her, or them, for damages, not exceeding five pounds, and shall pay over any balance which may then remain, or in case no damages shall be assessed, then the amount, less the fees of poundage and keep, to the owner or owners or possessor or possessors of the said stock; and in case such owner or other person entitled thereto cannot be ascertained, then such pound-keeper shall pay such balance or amount, less the fees as aforesaid, into the public Treasury: Provided nevertheless, that if within three months after the same hath been paid as aforesaid, the owner of such stock, or other person entitled thereto, shall make claim for the same, and shall prove such claim before any two Justices of the Peace, and shall procure their certificate of such claim being just and true, the Treasurer, on receiving such certificate, shall return the same to the person named in such certificate.

Proviso.

Penalty on persons owning stock, which shall trespass and do damage upon any land, &c.

22. And be it further enacted, That if any stock as hereinbefore mentioned, or any feathered stock, shall trespass upon land, or within any house or premises, and do damage or injury to anything thereof or therein, or root or break up the ground, or commit any injury thereon, upon complaint thereof to be made by the party aggrieved, and upon proof thereof before any two Justices of the Peace, such Justices are hereby authorized and directed to assess the damages sustained, provided the same do not exceed the sum of five pounds, and to order the owner or possessor of such stock to pay such damages to the party injured, together with the costs of the same.

Pound-keeper to destroy glandered animals.

23. And be it further enacted, That if any horse or other animal which shall be brought to the pound shall appear to be suffering from glanders or other contagious disease, the pound-keeper shall, and he is hereby required to destroy the same, after having obtained the opinion of any three disinterested persons whom he may think most competent, that such animal is so glandered or otherwise diseased.

Penalty on persons who shall rescue any stock, &c.

24. And be it further enacted, That any person who shall rescue any stock from any other person who shall be proceeding with the same to the pound of the parish wherein the same shall have been taken up, or unlawfully removing any stock from any pound in which the same may have been lodged, or in any way molest, impede, or obstruct the pound-keeper in the execution of his duties, shall, on conviction thereof before any two Justices of the Peace, forfeit and pay a fine not exceeding the sum of ten pounds, or be imprisoned for any term not exceeding three calendar months.

Penalty on persons who shall break any pound with intent to set at large

25. And be it enacted, That any person who shall break any pound wherein any stock is impounded under the authority of this Act, with intent to set at large any stock which may be therein confined, whether the same be accompanied by a breach of the peace or not, shall be guilty of a misdemeanour, and shall be liable to such punishment, on

conviction thereof before any Court of competent jurisdiction, as by the criminal laws of this Island may be awarded against any person convicted of any other misdemeanour.

Penalty on persons releasing any stock impounded.

26. And be it enacted, That if any person shall release or attempt to release stock lawfully seized and impounded, from the pound or place where they shall be impounded, or shall destroy such pound or place, or any part thereof, or any lock or bolt or other fastening thereof, he shall, on conviction before two Justices of the Peace, forfeit and pay any sum not exceeding five pounds, together with the reasonable charges and expenses, or in default thereof be committed to the common gaol, there to be kept at hard labour, for any time not exceeding three calendar months, unless such sum of money and costs as aforesaid be sooner paid.

Schedule of fees payable to the pound-keeper.

SCHEDULE OF FEES PAYABLE TO THE POUND-KEEPER.

	s.	d.
For receiving any horse, mare, gelding, colt, filly, mule, ass, bull, cow, ox, heifer, or calf	4	0
For receiving every ram, wether, ewe, lamb, goat, kid, hog, or pig	1	0
For the daily keep of each horse, mare, gelding, colt, or filly	2	0
For the daily keep of every mule, ass, bull, cow, ox, heifer, or calf	1	6
For the daily keep of every ram, wether, ewe, lamb, goat, kid, hog, or pig	1	0
For messenger hire where notice is actually delivered to the party interested, not more than one mile distant . .	0	6
Do. do. upwards of one mile	1	0

Form (A) of Register Book to be kept by each pound-keeper.

FORM (A) OF REGISTERED BOOK TO BE KEPT BY EACH POUND-KEEPER.

Name of the Person impounding the Stock.	Name of Person delivering the same at the Pound.	Date of receiving.	Description of Stock.	Alleged cause of Impounding.

Name of Person redeeming the Stock.	Date of Release.	Amount paid for such release.			Date of Sale of Stock.	Amount of proceeds.			How proceeds are disposed of.
		£	s.	d.		£	s.	d.	

SAINT CHRISTOPHER.

No. 111.

AN ACT to provide Summary Redress in cases of Minor Trespasses.

[*Dated 4th September*, 1855.]

Preamble.

WHEREAS the present unrestricted trespasses by persons passing through plantations, and loitering about the private paths thereof, tend much to augment the exposure to depredation unavoidably suffered by agriculturists; and it has been found impossible to check

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the pilfering of canes, megass, wood, potatoes, peas, grass, and other plantation produce, not susceptible of proof of identity, while such trespasses remain cognizable only in the Superior Court; and it is therefore expedient to give to Justices of the Peace jurisdiction in cases of minor trespasses: Be it therefore enacted, by the Officer administering the Government of Her Majesty's Islands of Saint Christopher and Anguilla, and the Council and Assembly of the same.

Cases of trespass on lands, &c., where no question of title arises, may be determined by two Justices of the Peace; and offender liable to pay fine not exceeding 40s. and costs.

I. That in all cases of trespass committed on lands, tenements, and hereditaments, where no *bonâ fide* question of title shall arise in the course of the proceedings, it shall and may be lawful for the party or parties aggrieved to prefer his, her, or their complaint before any Justice of the peace in the parish where the complainant or complainants shall reside, and such Justice of the Peace is hereby required and authorized to associate with himself another Justice of the Peace, which Justices, or any other two Justices, shall have full power and authority to hear and determine such complaint, and to award a sum not exceeding forty shillings and costs, to be paid by the party committing such trespass or trespasses, or to dismiss such complaint with costs not exceeding forty shillings, or without costs; and in the event of non-payment of the sum awarded, and costs, or of the costs awarded, either immediately or within such time as the Justices of the Peace hearing and determining such complaint shall appoint, any Justice of the Peace is hereby authorized and empowered, by a warrant, to authorize the same to be distrained for, or to commit the party or parties convicted of such trespass or trespasses, and omitting or neglecting to pay the amounts awarded, to the common gaol, there to remain for any space of time not exceeding ten days, unless the amount be sooner paid: Provided always, that all such fines, so as aforesaid imposed, shall be paid into the treasury, to the credit of the public revenue, and not to the party complainant.

Act not to affect right of passage through customary path—nor to affect the title of any proprietor in such path.

II. That this Act shall not interfere with, or be construed to affect the rights of any person or persons to pass or repass orderly and quietly through and along the customary path leading from the public highways to the several habitations to which such path leads: Provided, nevertheless, that nothing in this Act contained shall be deemed to affect the title or freehold of any proprietor or proprietors in any such path.

NEVIS.

AN ACT to repress Trespasses of Stock.

Preamble:

1. Present public pound to be continued.
2. As vacancies arise President to appoint keepers.
3. Proprietors, possessors, or person in charge of any plantation or other land, may impound any horse, mules, camel, ox, or other cattle; any sheep, goat, or swine found trespassing to be impounded in nearest public pound.
4. Pound-keeper to give notice in writing to owner in twenty-four hours.
5. For a camel, a fine of six shillings; horse, mule, ass, ox, or other cattle, four shillings to be paid to pound-keeper, with allowance of one shilling per day for feeding the same, sheep, goat, or swine, one shilling and sixpence to be paid to the pound-keeper, with allowance of fourpence per day for feeding the same.
6. Horse, mule, camel, ass, ox, or other cattle, impounded not redeemed within ten days; sheep, goat, or swine, within seven days, to be sold by public outcry, at nearest town or village, and proceeds, less fines and allowances and expenses, to be paid to owner, and if no application by owner in twenty-one days, to treasurer for public account.
7. Pound-keeper failing to provide food and water, or to give notice, liable to a fine not exceeding ten pounds.
8. Proprietor of any plantation, &c., may impound any horse, sheep, &c., found trespassing, to be impounded on such plantation, &c., and shall give notice in writing within twenty-four hours to owner, &c., and of fine and allowances not paid in forty-eight hours, and after notice shall sell the same. Application of proceeds.
9. Any person illegally impounding, &c., liable to a penalty of five pounds sterling, magistrate may award penalty to owner, and order release of animal.
10. Any person rescuing any animal impounded liable to a penalty of five pounds.
11. Proprietor, &c., may prefer complaint before police magistrate for damage done. Magistrate to award any sum not exceeding ten pounds and costs.
12. Proprietor, &c., may destroy any goat, swine, dog, or feathered stock; such stock being on cultivated land, found trespassing, and property being identified, notice in writing to the owner, &c., within twelve hours. Penalty for want of notice not more than two pounds. If property not claimed or not identified, considered abandoned.

13. Party aggrieved by trespass may, instead of destroying, &c., prefer complaint. Police magistrate may award any sum not more than ten pounds with costs.

14. Fines and penalties not specially appropriated to be paid to treasury on public account.

15. Any two magistrates to act in place of police magistrate.

16. All money mentioned sterling.

17. Repeal of Acts.

BE IT ENACTED by the President, the Council, and Assembly, as follows:

1. The several public pounds in use at the passing of this Act shall continue to be public pounds, and shall, from time to time, be repaired by the keepers thereof respectively under the order and direction of the President.

2. A pound-keeper shall, from time to time, as vacancies shall arise, be appointed to each pound by the President, and shall be removable at his discretion.

3. It shall be lawful for the proprietor, possessor, or person in charge of any plantation, estate, or other land, to cause any horse, mule, camel, ass, ox, or other cattle, or any sheep, goat, or swine, which shall be found trespassing on such plantation, estate, or land, to be captured and impounded in the public pound which shall be nearest to the place where the trespass was committed.

4. The pound-keeper to whose custody any animal shall be committed shall, within twenty-four hours, give notice in writing of the impounding of such animal to the owner, if the owner be known, and for such notice shall be entitled to the sum of one shilling.

5. The following fines, exclusive of the notice fee and allowances, shall be payable to the pound-keeper, that is to say, for the release of every camel, a fine of six shillings, and for every horse, mule, ass, ox, or other cattle, a fine of four shillings, which shall be paid to the pound-keeper to his own use, as a compensation for securing the same, with an allowance of one shilling per day for feeding the same; and for the release of every sheep, goat, or swine, a fine of one shilling and sixpence, which shall be retained by the pound-keeper to his own use as a compensation for securing the same, with an allowance of fourpence per day for feeding the same.

6. If any horse, mule, camel, ass, ox, or other cattle, so impounded, shall not be redeemed within ten days after such impounding, or if any sheep, goat, or swine, so impounded, shall not be redeemed within seven days after such impounding, the same at the expiration of the ten or seven days, as the case may be, shall be sold by public outcry at the nearest town or village, and the proceeds arising from the sale thereof, after deducting the notice fee, and allowances, and fine, and two shillings as and for expenses attending the sale, shall be paid by the pound-keeper to the owner of the animal so sold, and in case no application by or on behalf of the owner shall be made within twenty-one days after such sale shall have taken place, the said proceeds shall be paid to the treasurer on the public account.

7. If any pound-keeper shall fail to provide sufficient food and water for any animal impounded, or shall fail to give notice, if notice be practicable, of such impounding, he shall, on conviction thereof before the police magistrate, be liable to a penalty not exceeding ten pounds, and on non-payment thereof to be imprisoned in the common gaol for any period not exceeding thirty days.

8. It shall be lawful for the proprietor or possessor or person in charge of any plantation, estate, or other land, to cause any horse, mule, camel, ass, ox, or other cattle, sheep, goat, or swine, found trespassing on the same, to be impounded on such plantation, estate, or other land, and such proprietor, possessor, or person, shall, within twenty-four hours, give notice in writing to the owner thereof, or to his attorney or agent, if known, of such impounding, and if the fine and allowances hereinbefore made payable upon the release of any such animal from the public pound, together with the further sum of one shilling for the notice aforesaid, shall not be paid within forty-eight hours after the delivery of such notice, such proprietor, possessor, or person in charge, shall affix a notice in writing on some conspicuous part of the pound where such animal shall be impounded, and also in some conspicuous place on the public highway, that the animal so impounded will be sold, and after seven days from the date of such notice shall proceed to sell the same by a constable at the nearest town or village, and such proprietor, possessor, or person in charge, shall, in the first place, out of the proceeds of the sale, pay to the constable, as a compensation for his trouble, the sum of two shillings and eightpence, and shall retain out of the balance of the said proceeds the notice fee, fine, and allowance, hereby authorized, and shall pay the surplus, if any, to the owner of the animal on his application for the same, and if there shall be no such application,

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or if the owner shall not be ascertained within seven days from the day of such sale, then such surplus shall be paid into the treasury, on the public account; and if the animal so impounded cannot be identified as particular property, the party impounding shall affix such notice as aforesaid at least seven days before the sale thereof, and shall, in such notice, accurately describe such animal, and state the time and place of impounding the same, and the period and place of such intended sale, and the surplus proceeds, if any, of such sale, after making the deduction aforesaid, shall be placed into the treasury, and if such surplus shall not be claimed by the owner within thirty days the same shall be applied to the credit of the public: Provided always, that if any proprietor, possessor, or person, in charge of any plantation, estate, or other land, shall fail to provide sufficient food and water for any animal so impounded, or shall fail to give notice, if notice be practicable, of such impounding, he shall, on conviction thereof before the police magistrate, be subject to a penalty not exceeding ten pounds, and on non-payment thereof to be imprisoned in the common gaol for any period not exceeding thirty days.

9. Any person who shall illegally impound, or illegally capture, for the purpose of impounding, any animal as aforesaid, shall, on conviction thereof before the police magistrate, be liable to a penalty not exceeding five pounds, and on non-payment thereof to be imprisoned in the common gaol for any period not exceeding thirty days; and it shall be lawful for such magistrate to award the penalty imposed upon such offender to be paid to the owner of the animal so illegally impounded or captured, and in the event of the non-payment of the penalty so imposed to order and direct the release of any animal so impounded, upon payment by the owner thereof to the pound-keeper of any expense which shall have been incurred for securing and feeding the same.

10. Any person who shall rescue or attempt to rescue any animal impounded or about to be impounded under the authority of this Act, shall, on the conviction thereof before the police magistrate, be liable to a penalty of not more than five pounds, and in default of payment shall be committed to the common gaol, with or without hard labour, for any period not exceeding thirty days, and the police magistrate may also award to the party aggrieved a sum equal to the aggregate sum which he would have been entitled to receive upon the release of such animals, and upon non-payment thereof the party so offending shall be committed to the common gaol, with or without hard labour, for any period not exceeding thirty days.

11. Any proprietor, possessor, or person in charge of any plantation, estate, or other land, who shall consider the fines hereinbefore authorized an inadequate compensation for damages sustained, and shall not claim a sum exceeding ten pounds in respect to the damage committed, may prefer his complaint to the police magistrate within ten days, who is hereby authorized to adjudicate upon such complaint in the manner of any other complaint under the "Act to facilitate the Performance of the Duties of Justices of the "Peace with respect to Summary Convictions and Orders." And the police magistrate may award any sum, by way of compensation, not exceeding ten pounds, to the party aggrieved, besides costs, and in default of payment it shall be lawful for the magistrate to commit the offender to the common gaol for any period not exceeding three months.

12. It shall be lawful for any proprietor, possessor, or person in charge of any plantation, estate, or other land to shoot or otherwise destroy, any goat, swine, dog, or feathered stock, such feathered stock being on cultivated land, and which shall be found trespassing upon any such plantation, estate, or other land, and if upon such shooting or destroying the goat, swine, dog, or feathered stock, shot or otherwise destroyed, shall be identified as particular property, notice in writing of such shooting or destroying shall be given by the proprietor or possessor of land or his agent to the owner of the animal or stock shot or destroyed within twelve hours of such identification, and for the omission of such notice, such proprietor, possessor, or agent shall upon conviction thereof before the police magistrate be liable to a penalty not exceeding two pounds, and if the owner of such animal or stock shall not remove the same within twelve hours after the receipt of such notice, or if the property cannot be identified, the same shall be considered as abandoned, and be deemed the property of the party aggrieved.

13. The party aggrieved by the trespass of any animal or stock in the last section mentioned, may instead of shooting or destroying any such animal or stock prefer his complaint to the police magistrate who shall adjudicate thereon, as in the case of a complaint preferred under the "Act to facilitate the Performance of the Duties of Justices of "the Peace with respect to Summary Convictions and Orders," and the police magistrate may award to the party aggrieved any sum not exceeding ten pounds, besides costs, to be recovered as in the case of compensation of costs awarded in malicious injuries to

property, and in default of payment it shall be lawful for the police magistrate to commit the offender to the common gaol for any period not exceeding three months.

14. All fines and penalties, other than money payable to the party aggrieved or specially appropriated under this Act, shall be payable to Her Majesty, Her Heirs and Successors, for the use of the Colony.

15. It shall be lawful for any two magistrates to do any act by this Act directed to be done by the police magistrate.

16. All sums of money made payable by virtue of this Act shall be deemed and taken to mean sterling money of Great Britain.

17. The Act entitled "An Act for the more effectual Prevention of Trespasses and "Damages committed by Hogs and Goats in the Cultivated Lands of the said Island;" the Act entitled "An Act to repeal the Act entitled, 'An Act how Trespasses shall be inquired "'into and satisfied, and to make Provision for the better Prevention and Punishment of "'Petty Trespasses, and for obtaining Remuneration for Damages occasioned thereby;'" an Act entitled "An Act to regulate the impounding of Stock, to provide for the Appoint-"ment of Pound-keepers in the several Parishes of this Island, and to make further "Provision for the Prevention and Punishment of Trespasses by Stock," shall be and the same are hereby repealed, except as to any trespass committed before the passing of this Act, which shall be dealt with as if this Act had not been passed.

EDWARD MAYNARD, Speaker.

Passed the House of Assembly, this fourth day of May, One thousand eight hundred and sixty-five.

C. C. CAINES, Clerk of Assembly.

Passed the Board of Council, this twentieth day of July, One thousand eight hundred and sixty-five.

B. C. CAINES (Pro Secretary).

Published this fifth day of September, One thousand eight hundred and sixty-five.

B. C. CAINES, Provost-Marshal.

(Signed) JAS. W. SHERIFF,
President.

No. 100.

23 VICTORIA.

AN ACT to provide summary Redress in cases of Minor Trespasses.

Preamble:

1. Trespasses committed on lands may be heard and determined by any two Justices of the Peace. Penalty, on summary conviction, not to exceed two pounds sterling and costs. Proofs that trespasser had notice not to trespass, to be a condition precedent to injury. A painted or printed notice in letters of at least one inch in length, to be a sufficient notice if the same were on some conspicuous part of the premises at the time the trespass complained against was committed: otherwise complainant must prove that defendant had received either a written or verbal notice to the like effect.

2. Act not to affect the title of proprietors, or the right of persons, for sufficient cause, to pass and repass over private paths.

3. Repeals certain parts of Act No. 51.

WHEREAS the presented unrestricted trespasses by persons passing through plantations and other lands tend greatly to augment the exposure and depredation suffered by agriculturists and others, and which are irremediable except by action at law in the superior court; and whereas it is highly expedient to give to Justices of the Peace jurisdiction over cases of minor trespasses: Be it therefore enacted, by the officer administering the government, and the Council and Assembly of the same:

1. That in all cases of trespasses committed on lands, tenements, and hereditaments, by any person whomsoever, it shall be lawful for the party or parties aggrieved to prefer his, her, or their complaint before any Justice of the Peace; and such Justice of the Peace is hereby required and authorized to associate with himself another Justice of the Peace; and such Justices, or any other two Justices of the Peace, shall have full power and authority to hear and determine such complaint; and, where no *bonâ fide* question of title shall arise in course of proceedings, to award a sum not exceeding forty shillings sterling, and costs, to be paid by any person who may be convicted of committing such

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trespass, or to dismiss such complaint, with or without costs: Provided always, That as a condition precedent to the conviction of any person as aforesaid, it shall be necessary for such Justices as aforesaid to require proof of a notice in letters, painted, printed, or written, of at least one inch in length, forbidding trespasses, which was visible on some conspicuous part of the plantation or lands at the time of such trespass, or that the person complained against had received notice, either verbally or in writing, from the owner, possessor, or occupier of such plantation or lands, to desist or abstain from trespassing on the same.

2. That this Act shall not interfere with, or be construed to affect, the right of any person or or persons having good and sufficient cause or reason for doing so, to pass or repass, orderly and quietly, through and along the customary paths leading from the public highways to the several habitations to which such paths lead: Provided, nevertheless, that nothing in this Act contained shall be deemed to affect the title or freehold of any proprietor or proprietors in any such paths.

3. That so much of an Act passed by the Legislature of this Island in the year of our Lord One thousand eight hundred and forty-eight, intituled, "An Act to repeal an "Act, intituled, 'An Act how Trespasses shall be inquired into and satisfied,' and to "make Provision for the better Prevention and Punishment of Petty Trespasses, and for "obtaining Remuneration for Damages occasioned thereby," as relates to trespasses by persons entering upon and passing over lands, in going to or from their usual places of abode, after notice to desist, shall be, and the same is hereby repealed.

AN ACT to repress Trespasses by Sheep.

(L.S.) JAS. W. SHERIFF, President.

1. Sheep found trespassing on cultivated land may be shot, &c. If identified, notice in writing to be given to owners, &c., in three hours. Penalty for want of notice not more than forty shillings, with costs. Animals not removed in three hours after notice, or if not identified, considered as abandoned.

2. Recovery of penalty, application, &c.

WHEREAS great damage is committed by sheep, whose owners are not, for the most part, proprietors or occupiers of land, and who permit and suffer them to stray abroad and to subsist by trespass upon lands of neighbouring proprietors; and whereas it is in the majority of cases impracticable, by reason of their wildness and swiftness, to impound such animals:

Be it enacted, by the President administering the Government, the Legislative Council, and the Assembly:

1. If any sheep shall be found trespassing at large and untethered upon any land which shall be in cultivation, whether for canes, cotton, provisions, or otherwise, it shall be lawful for the proprietor or occupier of such land, or his agent or servant, to shoot or otherwise destroy the same; and if upon such shooting or destroying, the sheep shot or destroyed shall be identified as particular property, notice in writing of such shooting or destroying shall be given by the proprietor or occupier of the land, or his agent, to the owner of such sheep, or to the agent of such owner, within three hours of such identification, and for the omission of such notice, such proprietor, occupier, or agent shall be liable to a penalty not exceeding forty shillings sterling, with costs; and if the owner of such sheep shall not remove the same within three hours after the receipt of such notice, or if the property cannot be identified, the same shall be considered as abandoned, and be deemed the property of the party aggrieved.

2. The penalty hereby imposed, with costs, shall be recoverable upon complaint before the Police Magistrate, or any two Justices of the Peace, in the same manner as any pecuniary penalty may be recovered under the provisions of an Act passed in the year One thousand eight hundred and fifty-three, entitled "An Act to facilitate the Per-"formance of Duties of Justices of the Peace with respect to Summary Convictions and "Orders," and shall be payable, if the Police Magistrate or Justices aforesaid shall so order, to the owner of the sheep so shot or otherwise destroyed; and if no such order shall be made, to Her Majesty, Her Heirs and Successors, to and for the use of the Colony.

Passed the House of Assembly, this twenty-ninth day of July, One thousand eight hundred and sixty-five.

CHAS. C. CAINES.
Clerk of the House of Assembly.

Passed the Board of Council, this twenty-ninth day of July, One thousand eight hundred and sixty-five.

By command, B. C. CAINES (Pro Secretary).

Published this fifth day of September, One thousand eight hundred and sixty-five.

B. C. CAINES, Provost-Marshal.

No. 20.

VIRGIN ISLANDS.

COPY of a DESPATCH from President MOIR to Sir BENJAMIN C. C. PINE.

(No. 127.)

SIR, Virgin Islands, Tortola, 27th September, 1870.

In compliance with the request of the Secretary of State in the Circular Despatch, dated 2nd August, 1870, I have now the honour to transmit copies of those portions of the local Ordinances which refer to Trespass.

2. In the absence of any local enactment bearing upon the particular nature of the offence resort is had to the Imperial Statute 15th & 16th Victoria, cap. 76, or the Common Law Procedure Act, 1852.

3. There is no law in existence in this Colony for the Preservation of Game.

I have, &c.,

(Signed) ALEXANDER MOIR.

His Excellency Sir Benjamin C. C. Pine,
&c. &c. &c.

Enclosures in No. 20.

SUMMARY JURISDICTION ORDINANCE.

No. 3.—1863.

5. Any person who shall unlawfully and wilfully commit any damage to or injury upon any property, real or personal, such damage being under the value of five pounds, shall, upon conviction of the offence, be liable to a penalty not exceeding forty shillings, and shall also be liable to pay to the party aggrieved such sum not exceeding five pounds as shall appear reasonable to the Justice.

23. Every person entering without permission or lawful cause into any house or inclosure or upon any land in the quiet possession of any person after warning given to such person entering, or after notice publicly given warning off trespassers generally, shall be liable to a penalty not exceeding twenty shillings: Provided always, that where such trespass shall have arisen or occurred by reason of any question of title, and the quiet possession of the premises entered upon be disputed by the party entering, the Justice shall abstain from adjudicating upon it.

24. It shall be lawful for any Justice to hear and determine any information laid upon oath before him by the owner or agent of the owner of any land charging any person with having, without any probable claim or pretence of title thereto, entered upon or taken possession of such land or any part thereof; and if such information be proved to the satisfaction of the Justice, he shall make an order directing such person to deliver to the owner of the land or his agent peaceable possession thereof, together with all the immovable property thereon; and if the person against whom such order shall be made shall not within fourteen days after such order shall have been served upon him deliver up possession of the land and premises therein named he shall be liable to a penalty not exceeding twenty pounds: Provided always, that no such order shall be made if it shall appear that the person against whom it is sought hath been by himself or by those under whom he claims title in quiet possession of the land in question for one year next before the date of the information, or that such person hath any probable claim or pretence of title to such lands, or to the lawful occupation thereof.

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Enclosure 2 in No. 20.

Enclosure 2 in No. 20.

VIRGIN ISLANDS.

POUND ORDINANCE IN THE YEAR 1863.

No. IV.

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13. Stock impounded in Tortola to be advertised in Road Town.
14. Penalties on pound-keepers.
15. Fees.
16. Unredeemed stock to be sold.
17. Disposal of diseased stock.
18. Interpretation of word "stock."
19. Existing pounds and pound-keepers continued.
20. Schedules to form part of Ordinance schedules.

BE it enacted, by the Governor and Legislative Council of the Virgin Islands, as follows:—

Occupiers of land may impound stock trespassing thereon.

1. It shall be lawful for every occupier of land in the Virgin Islands by himself or his agents or servants to impound stock trespassing thereon: Provided that no occupier of less than two acres of land shall be entitled to a caption fee in respect of stock impounded by him for trespassing thereon unless such land be enclosed.

Stock found loose in public roads may be impounded.

2. It shall be lawful for any person to impound any stock found in any public road without any person being in charge thereof.

Swine and goats may be destroyed instead of impounded.

3. In any case where swine or goats may lawfully be impounded the same may be destroyed in lieu of impounding, and the destroyer shall place the head of the animal in the public road opposite the place of destruction, and may take the rest of the carcass to his own use.

Stock to be delivered up on payment of the caption fee.

4. Every person shall within twelve hours after the capture of any stock cause the same to be led or driven to the nearest pound, and any person proceeding to impound stock shall upon tender of the caption fee deliver up such stock to the person requiring the same.

Penalty for unlawfully impounding stock or rescuing impounded stock.

5. If any person shall by himself, his agents, or servants, unlawfully impound or attempt to impound any stock, or abuse, ill-treat, or ride any animal while proceeding to impound it, or shall neglect to take it to the pound as herein required, or shall make any false statement to the pound-keeper, or shall attempt to rescue any animal lawfully caught to be impounded, or after it is impounded, he shall be liable to a penalty not exceeding two pounds, and shall make such compensation to the party injured not exceeding five pounds as the Justice before whom the case is heard shall direct.

Governor to license pound keepers.

6. The Governor may grant a licence, in the form in the Schedule A annexed, to any person to keep a public pound at any place in these islands where it has been customary to keep a public pound, or where the Governor may hereafter deem it necessary and may revoke any such licence.

Pound-keepers to provide pounds, cleanse, and notify them.

7. Every pound-keeper shall within seven days after his appointment provide a sufficient enclosure as and for a public pound in which all stock may be safely kept without being tied; and shall cause such pound to be properly cleansed at least once a week, and shall near the gate thereof set up a board with the words "Public Pound" painted thereon in legible characters.

Impounded stock to be provided with food and water.

8. Every pound-keeper shall upon or before the expiration of twenty-four hours after any stock has been impounded provide sufficient food and water for the same, and shall continue to provide daily for such stock while impounded.

Cruelty to stock prohibited.

9. No pound-keeper shall suffer any stock in his charge to be abused, ill-treated, or injured in any way.

Dangerous stock may be tethered.

10. Every pound-keeper may at his discretion cause any stock brought to him to be impounded to be tethered apart either in or out of the pound as and when he may deem such precaution necessary.

Persons impounding stock to make declarations.

11. Every pound-keeper shall demand from the person bringing stock to be impounded a declaration of his name and place of abode, or the name and place of abode of the person sending the stock to be impounded, with the lawful cause and date of the impounding, and shall enter all such particulars in a book which shall be signed by him, and which book shall be open to the inspection of persons concerned at all reason-

able hours; and no pound-keeper shall receive any stock unless such declaration shall be made.

Impounded stock to be advertised in district.

12. Every pound-keeper shall within twenty-four hours after receiving any stock into his charge cause an advertisement thereof to be put up in some public place at or near his pound, which advertisement shall specify the colour, gender, marks, and brands of the impounded stock, and the name of the reputed owner, if known.

Stock impounded in Tortola to be advertised in Road Town.

13. The keeper of every pound in the island of Tortola shall also cause a copy of every such advertisement to be affixed (within forty-eight hours after the receipt of any stock into his charge) to a board to be provided by the Treasurer at the public expense for that purpose, and set up for public inspection in some conspicuous place in the Treasurer's Office.

Penalties on pound-keepers.

14. Every pound-keeper who shall neglect to keep any of the regulations hereinbefore prescribed shall for every offence be liable to a penalty not exceeding one pound, and shall make such compensation to the party injured, not exceeding five pounds, as the Justice before whom the case is heard shall direct.

Fees.

15. Every person impounding stock, save as hereinbefore excepted, shall receive to his own use from the pound-keeper the caption fees named in Schedule B; and every pound-keeper shall receive to his own use the fees specified in the said Schedule, to be paid before the stock shall be released.

Unredeemed stock to be sold.

16. Every Saturday at noon every pound-keeper shall sell at public auction in front of his pound all stock which shall have been impounded before noon on the preceding Saturday, and shall deliver the same to the highest bidder on receiving the amount of his bid, and after deducting therefrom the fees payable in respect of such stock shall hold the balance in his hand for thirty days, and if then unclaimed, shall deposit the same in the public Treasury, to be paid to the former owner of the stock at any time. And every pound-keeper who shall neglect to comply with the provisions of this clause shall be liable to a penalty not exceeding five pounds.

Disposal of diseased stock.

17. If any pound-keeper shall knowingly receive into any public pound any stock labouring under any contagious disease, he shall be liable to a penalty not exceeding twenty pounds. Any such stock brought to be impounded shall be tethered outside of the pound separately and apart from any other stock; and if any stock shall be brought to the pound which, in the opinion of the pound-keeper and two disinterested witnesses, shall be affected with farcy or glanders, the same shall be forthwith destroyed, and the owner of such diseased stock shall be liable to treble the ordinary fees in respect of such animal so destroyed, together with the expense of the destruction and removal thereof, which shall on demand be forthwith paid by the owner thereof, or in default of payment shall be recovered by the pound-keeper summarily in such manner as penalties under this Ordinance are recoverable.

Interpretation of word "stock."

18. The word "Stock" shall include horses, mares, asses (and foals of either), mules, bulls, oxen, cows and calves, sheep and lambs, goats and kids, and swine.

Existing pounds and pound-keepers continued.

19. The pound-keepers and public pounds appointed in pursuance of any Ordinance heretofore in force shall be deemed to be pound-keepers and public pounds under this Ordinance.

Schedules to be part of this Ordinance.

20. The Schedules hereunto annexed shall be deemed to be part of this Ordinance.

SCHEDULES.

A.

FORM OF APPOINTMENT OF POUND-KEEPER.

Virgin Islands. By His Honour A. B.
President, &c., &c., &c.

By virtue of the Pound Ordinance No. IV., 1863, I hereby license you, C. D., to keep a public pound at in the Island of .

Given under my hand and Seal at
this day of in the
year of our Lord

West Indian Colonies.

B.

LIST OF FEES.

CAPTION FEES TO BE PAID BY EVERY POUND-KEEPER TO EACH PERSON IMPOUNDING STOCK AFTER DECLARATION MADE [SAVE AS HEREINBEFORE EXCEPTED].

	£	s.	d.
For every head of Stock, other than Sheep, Goats, or Swine	0	1	0
For every head of Sheep, Goats, or Swine	0	0	3

TO BE PAID TO EVERY POUND-KEEPER ON REDEMPTION OF STOCK.

For Caption Fee on each head of Stock, other than Sheep, Goats, or Swine	0	1	0
For Sheep, Goats, or Swine, per head	0	0	3
For receiving each head of Stock into his charge, other than Sheep, Goats, or Swine	0	1	6
For each head of Sheep, Goats, or Swine	0	0	3
For every 24 hours any Stock shall remain in his charge after the first 24 hours, other than Sheep, Goats, or Swine	0	0	6
For Sheep, Goats, or Swine	0	0	1½
For each head of Stock when advertised in Treasurer's Office	0	0	6
For each head of Stock when advertised for sale	0	0	6

Passed by the Legislative Council this 22nd day of April, 1863.

By command,

GEO. H. A. PORTER, Clerk of Council.

Dated at Tortola, this eighteenth day of May, in the year of our Lord One thousand eight hundred and sixty-three, and in the twenty-sixth year of Her Majesty's reign.

JOS. G. GORDON, Provost Marshal.

Published this 19th day of May, 1863.

(Signed) J. R. LONGDEN.

No. 21.

No. 21.

DOMINICA.

COPY of a DESPATCH from Lieutenant-Governor FREELING to Sir BENJAMIN PINE.

(No 5.) Dominica, Government House, Roseau, 7th October, 1870.

SIR,

In obedience to the Secretary of State's Circular Despatch, dated 2nd August, 1870, I have the honour to forward copies of two Acts of this Island for the Preservation of Game, and Prevention of Trespasses.

I have, &c.,

(Signed) S. FREELING,
Lieutenant-Governor.

His Excellency Sir Benjamin C. C. Pine, Knt.,
&c. &c. &c., Antigua.

Enclosures in No. 21.

Enclosures in No. 21.

ISLAND OF DOMINICA.

No. 128.—Act 12.

AN ACT to prevent Trespasses in this Island, and to repeal an Act of this Island, entitled "An Act to regulate Trespasses, and for erecting Public Pounds in this Island."

Preamble. WHEREAS an Act of this island, entitled "An Act to regulate Trespasses, and for "erecting Public Pounds in this Island," hath been found very ineffectual: and whereas trespasses are daily committed, to the great injury of the planters of this island, particularly to those in the neighbourhood of the town of Roseau, frequently by cattle of persons who have not any pasture land to feed them on: And whereas horned cattle brought from the Spanish Colonies are often wild and dangerous: And whereas it is highly expedient that such enormities should be prevented for the future: We

Your Majesty's loyal and obedient subjects, the Governor, Council, and Assembly of this Your Majesty's island of Dominica, do humbly pray Your most excellent Majesty that it may be enacted:

Clause 1. Owner, &c., of plantation may take up cattle, &c., trespassing, and detain them until paid 8*s.* 3*d.* for cattle, &c., and 3*s.* for sheep.

Be it therefore, and it is hereby enacted and ordained by the authority aforesaid, that from and after the publication of this Act it shall and may be lawful for any owner, renter, manager, overseer, or other person, having the charge of any plantation, or plantations, or lands in this island, to take up and stop, or cause to be taken up and stopped, cattle, camels, horses, mules, asses or sheep, trespassing in or upon such plantation or plantations, or lands, or any part thereof, and to detain the same until the owner thereof shall pay for each head of horned cattle, camel, horse, mule, or ass, the sum of eight shillings and threepence, and for every sheep three shillings, to the person having taken, or caused the same to be taken up, or stopped, besides the value of the time of the slaves employed to take up the same, and three shillings for each day that the same shall have been detained and fed on such plantation or plantations, or lands, excepting sheep, for which no more than ninepence per day shall be paid, together with the amount of the damages which shall have been done by such beasts or sheep, the said time of the said slaves, and the said damages, to be ascertained by the oath of the said owner, renter, manager, overseer, or other person having charge of such plantation or plantations, or lands, before any Justice of the Peace, if not exceeding fifteen pounds current money, which oath any Justice of the Peace is hereby empowered and required to administer, and in case such beast or sheep shall escape, after having been trespassing, and cannot be taken up, then any such owner, renter, manager, or other person making oath of the value of the time employed in pursuit or detention thereof, and the damage done, and whom he believes in his conscience to be the owner or owners thereof before such magistrate, such magistrate shall thereupon grant a summons and proceed in all respects against such owner or owners as is directed by an Act of this island entitled, "An Act for the more speedy recovery of small debts, and to empower Judges of His "Majesty's Court of Common Pleas and Justices of the Peace for this island to hear, "adjudge, and determine, simple contract debts not exceeding the sum of six pounds "twelve shillings current money of this island, or balances of accounts of six pounds "twelve shillings, or under, that never exceeded the sum of fifteen pounds like current "money;" in case such person or persons shall not prove that he, she, or they, is, or are not the owner or owners. And in case any horned cattle brought from the Spanish Colonies shall be wild and dangerous, and cannot be taken without risk, it shall and may be lawful for such owner, renter, manager, or overseer, or other person having charge of such plantation or plantations, or lands, to shoot, or cause the same to be shot, or killed: Provided always, that the person having shot, or caused the same to be shot, or killed, shall make oath before a Justice of the Peace that such cattle so shot or killed could not be taken up and stopped without risk and danger, under the penalty of twenty pounds current money, to be recovered in a summary manner upon complaint of the owner or owners thereof before any Justice of the Peace, who is hereby authorized and required to issue a warrant to any constable to levy the same, such penalty to be paid to the owner of the cattle so shot or killed.

Time of slaves paid in taking, and rate of feeding animals.

Damages ascertained before Justice by oath of owner, &c., and not to exceed £15.

Beast, &c., escaping, and oath made, Justice to grant summons, and proceed against owner.

Wild Spanish cattle may be shot.

Proviso that persons shooting prove that they could not be taken without risk.

Clause 2. Cattle taken to be fed, and notice to owner, if known, if not to be advertised.

And be it, and it is hereby further enacted and ordained, that when any cattle, camels, horses, mules, asses or sheep, shall be taken up, the owner, renter, manager, overseer, or other person having charge of the plantation or plantations, or land on which the same shall have been taken up, shall cause the same to be sufficiently fed, and if he or they shall know the owner or owners of the beast or sheep taken, he or they shall give notice thereof to such owner or owners of such beast or sheep, the expense for doing which, if any, shall be included in the amount of the time employed in taking the same, and paid for in the same manner; and if such owner, renter, manager, overseer, or other person having charge of any plantation or plantations, or lands on which any cattle, camels, horses, mules, asses or sheep, shall have been taken up, shall not know the owner or owners thereof, then after giving fifteen days' notice, by advertising such beast or sheep, and a description thereof in the public gazette, if the same shall not within that time be claimed and paid for in manner as hereinbefore mentioned (including the expense of the notice or advertisement), then such owner, renter, manager, overseer, or other person having charge of such plantation or plantations, or lands, may cause such beast or sheep so having been advertised to be publicly sold at auction for ready gold and silver money in the nearest town or village to the place where such plantation lies by any constable, and after deducting therefrom the said sum of eight shillings and threepence for each beast, and three shillings for each sheep, the amount or value of the time of the slaves employed in taking the same, the said sum of three shillings for each day such beast and ninepence for each day such sheep shall have been detained and fed,

If unclaimed and not paid for in fifteen days, sold.

WEST INDIAN COLONIES.

the amount of the damages done to be ascertained with the value of the time of the slaves employed in taking of the same as hereinbefore directed, together with the expense of the notice or advertisement, and all expenses attending the sale; such owner, renter, manager, overseer, or other person having charge of such plantation or plantations, or lands, where such beasts or sheep shall have been so taken, shall pay the surplus into the public treasury of this island for the use of the owner or owners of such beasts or sheep when he, she, or they, shall appear, and prove their property, and in the meantime shall go to the public uses of the Colony. And in all cases where any wild dangerous horned cattle as aforesaid shall have been shot or killed, the owner, renter, manager, overseer, or other person having charge of any plantation or plantations, or lands on which the same shall have been so shot or killed, shall cause the same to be bled and embowelled, and if he or they know the owner or owners thereof, shall give immediate notice to such owner or owners who, on paying all expenses and charges as is hereinbefore directed, shall be permitted to take the same away; but if the same shall not be claimed and paid for as aforesaid and taken away in two hours from the time the same shall have been so killed or shot, the same may be immediately caused to be sold in manner as aforesaid by such owner, renter, manager, overseer, or other person having charge of such plantation or plantations, or lands, the proceeds to be disposed of as hereinbefore directed. And the constable shall be allowed for each head of horned cattle, camels, mules, horses, or asses sold, the sum of ten shillings, and for each sheep three shillings, and any constable refusing or neglecting to do his duty in selling the same shall be fined in the sum of five pounds to be recovered on complaint to any Justice of the Peace, who may and is hereby required to commit such constable until he pays his fine. And in case the constable should refuse to sell the same, the person having shot or killed, or caused the same to be killed or shot, may cause the same to be sold by some proper person whom he may direct for that purpose, the proceeds to be appropriated as aforesaid.

Net proceeds paid into Treasury until owner appears, &c.

When wild cattle killed, notice sent to owner.

Who, to take them, paying damages, &c.

If not claimed and paid for in two hours, sold by killers.

Constables fees selling cattle, &c., 10*s*, and sheep 3*s*.

Not doing his duty to forfeit £5.

Clause 3.

Wild cattle in the streets or roads killed, but not with firearms in the towns.

And be it, and it is hereby further enacted and ordained, that whenever any ferocious wild and dangerous horned cattle shall be found loose in any of the streets of the towns, or in any of the high roads in this island, to the terror of the inhabitants or passengers, it shall and may be lawful for any white or free person or persons to kill, or cause the same to be killed, but not with fire-arms in the towns, and the owner or owners thereof may take away the carcase; but if the carcase shall not be taken away within two hours after such horned cattle shall have been killed, then the clerk of the market, or, in his absence, any constable, shall sell the same publicly, and after deducting his fees for sale, as fixed by the second clause of this Act, shall pay the remainder into the public treasury of this island for the use of the owner or owners thereof proving their property.

Owner to take carcase in two hours, or the same sold.

Sale as above.

Clause 4.

And be it, and it is hereby enacted and ordained, that it shall and may be lawful for all persons either in town or country within this island and for their respective servants or slaves, to kill any hogs or goats trespassing on their land, and any hogs or goats that shall be killed or disabled while trespassing the owner may have half of the same, if claimed within two hours after such killing or disabling, and if not claimed within that time, the whole may be taken away by any person free or a slave, and shall become the absolute property of the taker, and it shall and may be lawful for any person or persons to kill, or cause to be killed, any hogs or goats found straying in any streets of the towns or in any of the public roads in this island: Provided, it be not with fire-arms in the towns, and the owners of any such hogs or goats so killed in any of the streets or public roads may have the whole of them, if claimed and taken away within one hour after they shall have been killed, except the head, which shall be the property of the killer, and if they shall not be claimed and taken away within that time, then the person or persons having killed, or caused them to be killed, may take or cause the whole of them to be taken away, as his or their absolute property.

If hogs or goats trespassing and killed, owner to take half.

If found in streets or roads, to be killed (without fire-arms in towns.)

Owner to have body if taken away in one hour; if not, both body and head for killer.

Clause 5.

And be it, and it is hereby enacted and ordained, that any negro, or descendant of a negro, who shall wilfully gallop any horse, mare, or mule in any of the streets of any of the towns of this island, he shall, on complaint thereof being made to any Justice of the Peace, if a free person, be fined in any sum not exceeding five pounds, nor less than ten shillings current money, which fine shall be paid into the public treasury of this island for the public uses thereof, and if a slave shall receive any number of lashes not exceeding thirty-nine.

No negro or his descendant, to gallop streets, and if free, to pay 10*s*. to £5; and if a slave, whipped.

Altered by Act, No. 394.

Clause 6.

And be it, and it is hereby further enacted by the authority aforesaid, that if any stone horse or stone mule shall be found loose or straying in the streets of the towns, or in the roads of this island, the owner or owners thereof shall pay for each stone horse or stone mule so found loose or straying a fine of five pounds current money, to be recovered

Stone horse or mule loose, owner fined £5.

upon complaint to any Justice of the Peace, who is hereby authorized and required upon such complaint being made to him of the owner or owners of such stone horse or stone mule, to grant a summons, and to proceed against such owner or owners as is provided by the first clause of this Act, one-half of the said fine to be paid into the public treasury of this island for the public uses thereof, and the other half to the person or persons having taken up such stone horse or stone mule: Provided always nevertheless, that if it shall be proved upon oath before such Justices that such stone horse or stone mule had escaped or broken loose without the will or knowledge of such owner or owners, and that such owner or owners, or a person or persons employed by him, her, or them, were actually in pursuit of such stone horse or stone mule at the time the same was taken up, then and in that case the said fine shall not be levied, and the owner or owners shall pay no more than one dollar to the person or persons having taken up such stone horse or stone mule, and the lawful fees of the justice and constable.

How recovered.

Proviso, if proved that horse or mule broke loose.

Fine not levied.

And be it, and it is hereby enacted and ordained, that an Act of this island entitled "An Act to regulate Trespasses, and for erecting Public Pounds in this Island," and every clause, matter, and thing therein contained, be, and the same is and are hereby repealed, and that all fines laid by this Act, and not hereinbefore appropriated, shall be paid into the public treasury of this island for the public uses thereof.

Clause 7. Former Act repealed. By an Act passed on the 10th of Feb., 1841, 539, called the Pound Act—the Act is repealed so far as relates to the taking and detaining animals found trespassing or straying in towns of Roseau and Charlotteville, and the fees payable thereon.

Passed 20th August, 1785.

AN ACT for the better Preservation of the Game of this Island, and for repealing an Act passed the Nineteenth day of March, One thousand seven hundred and eighty-seven, entitled "An Act for the Preservation of the Game of this Island."

Preamble:

WHEREAS, an Act passed the nineteenth day of March, One thousand seven hundred and eighty-seven, entitled "An Act for the Preservation of the Game of this Island," hath not been found effectual, and it has become expedient to repeal the same; We therefore, your Majesty's most dutiful, loyal, and obedient subjects, the Governor, Council, and Assembly of this your Island of Dominica, do humbly pray your most Excellent Majesty that it may be enacted and ordained:

And be it, and it is hereby enacted and ordained by the authority aforesaid, that from and after the publication of this Act, all persons whatsoever shall be and are hereby prohibited and forbid from destroying, from the first day of February to the thirty-first day of August in every ensuing year, any of the following game, to wit, wild pigeon or ramier, parrots or ciceros, doves, grieves, partridges, or perdrix; and all persons are further prohibited and forbid to have in their possession any of the said game, or any young or eggs of the same, during the period above mentioned; and any white person, or free person of colour, or any slave acting under the orders of any white person or free person of colour, who shall be guilty of any breach of this law, such white person or free person of colour shall forfeit a sum not exceeding ten pounds current money, to be recovered on the oath of any white person or free person of colour, before any one Justice of the Peace, one-half to the use of the informer the other half to the uses of the Colony; and in default of payment thereof such offender shall be committed to the common gaol, without bail or mainprize, for any time not exceeding thirty days, unless he shall sooner pay the same and all fees due to the constable and marshal; and any slave so offending without authority from his or her owner shall be publicly whipped by the order of the magistrate with any number of stripes not exceeding fifty.

Clause 1. Season for killing game. What birds are deemed game.

Penalty on free persons violating this Act.

On slaves.

And be it &c., That an Act passed on the nineteenth day of March, One thousand seven hundred and eighty seven, entitled "An Act for the Preservation of the Game of this Island," be and the same is hereby declared to be repealed.

Clause 2. Former Act repealed.

Passed 19th May, 1828.

AFRICAN AND MEDITERRANEAN COLONIES.

AFRICAN AND MEDITERRANEAN COLONIES.

No. 22.

No. 22.

GIBRALTAR.

COPY of a DESPATCH from Governor Sir RICHARD AIREY to the Earl of KIMBERLEY.

MY LORD, Gibraltar, 27th August, 1870.

I have the honour to acknowledge the receipt of your Lordship's Despatch, marked "Circular," of the 2nd instant, on the subject of the Laws in force in the Colonies as to Trespass and also as to the preservation of Game, and requesting me to furnish your Lordship with copies of any Enactments in force in the Colony of Gibraltar on the subject; and to acquaint your Lordship, in reply, that there are no local laws in force in this Fortress as to Trespass or as to the preservation of Game; there is, however, in force a Garrison Order to the following effect:—"That no person of any description whatsoever is permitted to discharge Fire-arms, or to let off Fire-works, in this "Garrison. Neither is any person whatever permitted to take or destroy the Birds or "Animals in the Alameda or on the Hill-side, or to carry a Gun within the precincts of "the Garrison, without a permit from the Governor. The names of Officers transgressing this Order will be taken down by the Military Police or patrols from the "nearest Guards, and reported to the Governor. All other persons will be apprehended "and sent to the Town Major's office."

I have, &c.,

(Signed) RICHARD AIREY,
Lieut.-General and Governor.

The Right Hon. The Earl of Kimberley,
&c. &c. &c.

No. 23.

No. 23.

MALTA.

[Not received.]

No. 24.

No. 24.

SIERRA LEONE.

COPY of a DESPATCH from Governor Sir A. E. KENNEDY, C.B., to the EARL OF KIMBERLEY.

(No. 141.) Sierra Leone,
MY LORD, 22nd August, 1870.

I have the honour to acknowledge the receipt of your Lordship's Circular dated 2nd August, 1870, calling for information as to the laws in this Colony for Trespass, and also for the Preservation of Game.

I have the honour to report that there are no such laws in force in this Settlement.

I have, &c.,

The Earl of Kimberley, (Signed) A. E. KENNEDY,
&c. &c. &c. Governor-in-Chief.

No. 25.

No. 25.

GAMBIA.

[Not received.]

No. 26.

No. 26.

GOLD COAST.

COPY of a DESPATCH from Governor Sir A. E. KENNEDY, C.B., to the EARL OF KIMBERLEY.

(No. 99.) Sierra Leone,
MY LORD, 3rd October, 1870.

I have the honour to transmit, for your Lordship's information, a Despatch received from the Administrator of the Gold Coast, No. 130, dated 19th September, 1870, stating, in reply to your Lordship's Circular of the 2nd August, 1870, that there are no laws in the Settlement for the Preservation of Game.

I have, &c.,

The Earl of Kimberley, (Signed) A. E. KENNEDY.
&c. &c. &c. Governor-in-Chief.

Enclosure in No. 26.

Enclosure in No. 26.

(No. 130.) Government House, Cape Coast,
SIR, 19th September, 1870.

In reference to Colonial Office Circular of 2nd August, 1870, I have the honour to state that there are no laws in this Settlement for the Preservation of Game. The law of Trespass (whenever enforced, which is very rarely) is merely the adaptation of British law to reasonable native custom in the Judicial Assessor's Court, and is not fixed by any local enactment.

I have, &c.,

Sir Arthur E. Kennedy, C.B., (Signed) H. T. USSHER,
Governor-in-Chief, Administrator.
&c. &c. &c.,
Sierra Leone.

AFRICAN AND MEDITERRANEAN COLONIES.

No. 27.

No. 27.

LAGOS.

COPY of a DESPATCH from Governor Sir A. E. KENNEDY, C.B., to the EARL OF KIMBERLEY.

(No. 109.)

Sierra Leone,
3rd November, 1870.

MY LORD,

I have the honour to transmit, for your Lordship's information, a Despatch (Lagos, No. 163, dated 16th October, 1870), which I have received from the Acting Administrator, in reply to your Lordship's Circular Despatch of the 2nd August, 1870, inquiring whether laws for the Preservation of Game are in force within the Settlement of Lagos.

I have, &c.,
(Signed) A. E. KENNEDY.
Governor-in-Chief.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 27.

Enclosure in No. 27.

(No. 163.)

Government House, Lagos, 16th October, 1870.

SIR,

In reply to Circular Despatch of the 2nd August, 1870, from Her Majesty's Secretary of State for the Colonies, relative to the laws in force in this Colony as to Trespass and the Preservation of Game, I have the honour to state that there is no game in the Colony except a small species of antelope. There are no enactments with reference either to the preservation of game or to trespass. Trespassers would, however, be liable to be sued for damages.

I have, &c.,
(Signed) W. H. SIMPSON,
Administrator.

Sir Arthur E. Kennedy, C.B.,
Governor-in-Chief,
&c. &c. &c.
Sierra Leone.

No. 28.

No. 28.

CAPE OF GOOD HOPE.

COPY of a DESPATCH from the ADMINISTRATOR of the Government to the EARL OF KIMBERLEY.

(No. 31.)

Government House, Cape Town,
24th September, 1870.

MY LORD,

Enclosure. Laws relating to Trespass and the Preservation of Game.

In compliance with the request contained in your Lordship's Circular Despatch of the 2nd ultimo, I have the honour to enclose copies of all laws in force in this Colony upon the subject of Trespass and the Preservation of Game, which do not appear to call for any observations on my part.

I have, &c.,
(Signed) C. HAY, Lieut.-Genl.,
Lieutenant-Governor Administering the Government.

The Earl of Kimberley,
&c. &c. &c.

Enclosures in No. 28.

Enclosures in No. 28.

CAPE OF GOOD HOPE.

No. 22.—1867.

ACT to amend the Law relating to the issue of Passes to, and Contracts of Service with Natives, and to the issue of Certificates of Citizenship, and to provide for the better protection of property.

Persons wandering over or loitering on private property without leave of owner may be apprehended. And punished by imprisonment or fine.

11. If any person shall be found wandering over any land belonging to or lawfully and of right occupied by any private person or persons, or loitering on private property near to, or lodging in any house, outhouse, or kraal, without leave of the owner thereof; and if such person shall be unable to give a good and satisfactory account of himself, then such person may be arrested as idle and disorderly, and shall be liable, on conviction before the resident magistrate of the district, on the complaint of the owner or occupier aforesaid, to imprisonment for any period not exceeding fourteen days, with or

without hard labour, and with or without spare diet, or to a fine not exceeding one pound sterling; and in default of payment thereof to such imprisonment as last aforesaid, with or without hard labour, and with or without spare diet. And any person hereby declared to be liable to be arrested may be so arrested and conveyed to gaol by the owner or occupier of the property or premises on which such person shall be found, or by his servants, or by any police officer or constable, at the request of such owner or occupier.

AFRICAN AND MEDITERRANEAN COLONIES.

Who may apprehend.

CAPE OF GOOD HOPE.

No. 12.—1870.

AN ACT for the better Preservation of Wild Ostriches.

ANALYSIS.

Preamble.
1. Proclamation of 21st March, 1822, repealed.
2. Penalty for killing, &c., wild ostriches without a licence.
3. Like penalty for killing, &c., ostriches during fence season.
4. Stamp duty on and duration of licence.
5. Governor to proclaim fence season.
6. Penalty for disturbing, &c., eggs of wild ostriches.
7. Owner or occupier of land allowed to catch young ostriches for domestication.
8. Fines by whom and how recoverable. Portion of fine to be paid to informer.
9. Ostriches may be protected for certain number of years.
10. Absence of name from list of licences *primâ facie* proof of non-issue of licence.

Preamble.

WHEREAS, it is expedient to prevent the indiscriminate destruction of wild ostriches in this Colony: Be it therefore enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Proclamation of 21st March, 1822, repealed.

1. The Proclamation dated 21st March, 1822, intituled "Game Law Proclamation," in so far as the same relates to the protection of ostriches or the eggs of ostriches, is hereby repealed.

Penalty for killing, &c., wild ostriches without a licence.

2. No person shall kill, catch, capture, hunt, or wound any ostrich not being domesticated without having first obtained a licence to kill ostriches, under a penalty of any sum not less than thirty pounds sterling and not exceeding fifty pounds sterling for the first offence, and not less than forty pounds sterling and not exceeding one hundred pounds sterling for every subsequent offence; and any person convicted under this section within six months from the time of the offence may be imprisoned, with or without hard labour, for any term not exceeding six months, unless or until the fine be sooner paid.

Like penalty for killing, &c., ostriches during fence season.

3. No person shall, whether having obtained a licence to kill ostriches or not, kill, catch, capture, hunt, or wound within any district of this Colony, any ostrich not being domesticated within the months which shall in any such district be for the time being proclaimed as fence season for ostriches under the provisions of this Act, under like penalties as by the last foregoing section are provided in cases falling within that section.

Stamp duty on and duration of licence.

4. For every licence to kill ostriches there shall be payable a stamp duty of twenty pounds sterling; and every such licence shall be in force for the time specified therein, and no longer: Provided that every licence to kill ostriches shall authorize the holder thereof to catch, capture, hunt, or shoot at the same.

Governor to proclaim fence season.

5. It shall be lawful for the Governor, by proclamation to be by him issued, to fix and prescribe for the several districts in this Colony the close time or fence seasons within which it shall not be lawful to kill, catch, capture, hunt, or wound ostriches within this Colony, not being domesticated ostriches, either with or without a licence to kill ostriches.

Penalty for disturbing, &c., eggs of wild ostriches.

6. No person shall at any time wilfully take away, disturb, destroy, or have in his possession the eggs of any wild ostrich in any part of this Colony under the penalty of any sum not exceeding three pounds sterling for the first offence, and not less than three pounds sterling nor exceeding six pounds sterling for every subsequent offence, the conviction in each case being within six months from the time of the offence charged; and any person convicted under this section may be imprisoned, with or without hard labour, for any term not exceeding three months, unless the fine be sooner paid.

Owner or occupier of land allowed to catch young ostriches for domestication.

7. It shall be lawful for any owner or occupier of land, without having taken out any licence, to catch and keep, or to cause or permit to be caught and kept, the young of any ostriches for the purpose of domestication, at any time when the same shall be found upon the land of such owner or occupier, anything contained in this Act or in any other law to the contrary notwithstanding.

8. The several fines above mentioned may be recovered by any person, on behalf as

AFRICAN AND MEDITERRANEAN COLONIES.

Fines by whom and how recoverable. Portion of fine to be paid to informer.

well of himself as of the Crown, in all cases where the fine shall not exceed fifty pounds sterling, in the Court of the resident magistrate of the district where the offence may have been committed; the sentence, however, being subject to review by the Supreme or Eastern Districts or Circuit Courts, as the case may be, and in other cases in the Supreme Court, the Court of the Eastern Districts, as the case may be, or the Circuit Court for the district where the offence may have been committed; and a portion of any fine imposed upon any offender on conviction for contravening any of the provisions of this Act, not less than one pound nor exceeding five pounds, at the discretion of the Court, shall be paid to the person on whose information such conviction shall have taken place, provided such person be not an accessory.

Ostriches may be protected for certain number of years.

9. It shall be lawful for the Governor, by proclamation in the *Government Gazette*, to proclaim and declare, as to any parts of this Colony, that wild ostriches shall be protected and not destroyed for any number of years not exceeding three, to be mentioned in such proclamation; and any person contravening the provisions of any such proclamation shall be subject to the like penalties as those provided by the second section of this Act; and it shall also be lawful for the Governor from time to time to revoke, alter, or amend such proclamation.

Absence of name from list of licences *primâ facie* proof of non-issue of licence.

10. In any prosecution for infringement of the second section of this Act, it shall be *primâ facie* sufficient for the prosecutor to show that the accused does not appear as the holder of a licence in the list of persons to whom the requisite licence in such case shall have been issued, respectively, kept in the office of the resident magistrate, before whom or in whose district such case shall be brought for trial in any court; but it shall be lawful for such accused person to rebut such evidence by proof that he was, in fact, at the time of the commission of the offence charged, the lawful holder of such licence.

Given at Government House, this 5th day of May, 1870.

By command of His Excellency the Governor,

R. SOUTHEY, Colonial Secretary.

GAME LAW PROCLAMATION BY HIS EXCELLENCY GENERAL THE RIGHT HON. LORD CHARLES HENRY SOMERSET.

WHEREAS it has appeared to me that the existing regulations against the destruction of game, and for the preservation of some particular species of the same, do not wholly meet the laudable object with which they have been established; and whereas, the rapidly increasing population renders it daily more necessary to guard against the total destruction of game in this colony, in the most efficacious manner: I have thought proper to order and direct, and it is hereby ordered and directed accordingly:

1. That from and after the 1st July until the 30th November, in each year, both days inclusive, all persons whosoever are strictly forbidden to shoot any pheasant, partridge, korbaan, wild peacock (paauw), ostrich, buck (comprising the whole antelope species), hare, or zebra, under a penalty of fifty rix-dollars for each head of game so killed during said period—namely, from the 1st July to the 30th November, in every year, both days included, together with all the costs and expenses attending the prosecution; or in failure of payment thereof, one month's imprisonment in the gaol of the district in which such offence shall have been committed, for every fifty rix-dollars which the transgressor shall be found to have forfeited, in proportion to the quantity of game he may have killed.

2. From this prohibition and penalty are, however, exempted, farmers and other free persons travelling through the country, and shooting game for their actual consumption on the road, provided it be on the other side of Hottentots Holland Kloof, and at the other side of the Great Berg River, so that the prohibition contained in the preceding article is to be in full force and rigour in the whole of the Cape district, and in the district of Stellenbosch, at this side of the Hottentots Holland Mountains, and the Great Berg River, under a like penalty of fifty rix-dollars for each head of game which shall be found to have been shot in the Cape or Stellenbosch districts, respectively, within the limits herein specified, or beyond the same, if not actually shot on the road for the consumption of farmers or other free persons travelling through the country; or one month's imprisonment in case of failure of payment, in proportion of the pecuniary penalty incurred. In no case whatever shall game so shot be brought into Cape Town, or any of the residences of the country districts, under the penalty hereafter prescribed in article fourteen.

3. That no person whosoever shall, at any time, wilfully catch or destroy any pheasant,

partridge, korbaan, wild peacock, ostrich, buck, hare, or zebra, either by net, snare, spring, or other engine, under the same penalty as prescribed in the two foregoing articles.

4. It is hereby especially enacted that no person shall, at any time, knowingly or willingly catch, take away, or destroy the young or eggs of any such game as aforesaid, under a penalty of fifty rix-dollars for every offence, together with all the costs and expenses attending the prosecution; or, in failure of payment thereof, one month's imprisonment in the gaol of the district in which the offence shall have been committed.

5. Exclusive of the period prescribed in the first article—that is to say, from the 1st December to the 30th June, in each year, no person whosoever shall be at liberty, anywhere, to shoot or kill any pheasant, partridge, korbaan, wild peacock, ostrich, buck, hare, or zebra, either by gun or dog, unless he shall have previously obtained a licence to that effect—that is to say, all persons residing in Cape Town, Cape district, and the residency of Simon's Town, from the Colonial Office; and all other persons from the respective landdrosts, on a stamp of five rix-dollars, which licence will be in force only for one season, namely, from the 1st December to the 30th June, in each year, both days inclusive; any person shooting, killing, or destroying game without such licence shall forfeit the penalty prescribed in Article one.

6. No holder of such licence, however, shall be at liberty to shoot or kill any elephant, sea cow, hippopotamus, or boute buck, without having obtained a special permission to that effect from the Governor for the time being, under a penalty of five hundred rix-dollars for each offence; or, in failure of payment thereof, six months' imprisonment in the gaol of the district in which the offence shall have been committed. [Extended to elands, 14th March, 1823; repealed as to elephants, 23rd August, 1822.]

7. That no person or persons whosoever shall, under warrant of any licence or other authority, pursue or kill any game in or upon any lands the property of, or lawfully occupied by, any individual in the colony, without the express permission of the proprietor or occupier thereof, under a penalty of twenty-five rix-dollars for the first transgression, and of one hundred rix-dollars on repetition of the offence after the first warning, over and above the payment of damages, if such be proved, recoverable by ordinary prosecution at law: Provided always, that due notice and warning shall have been given not to trespass in the pursuit of game on the lands of the said proprietor or occupier.

8. That it shall at any time be lawful for any proprietor or occupier of land which shall have been brought into cultivation to kill, destroy, and drive forth, from and out of such land being in a state of cultivation, all and every species of game which shall have entered or harboured to the loss, annoyance, and injury of the proprietor or occupier: Provided, always, that it shall not be lawful to pursue or destroy such game out of, or beyond, the limits of the land so cultivated.

9. As the respective holders of the leases of government places situated at Gwenekloof are expressly forbidden, by the conditions of the leases, either to shoot, catch, kill, or otherwise destroy any game within the limits of their respective places, or allow others so to do, such prohibition is hereby converted into a permanent law; and that, all game found on those places being more especially considered as public property, neither the respective holders of such leases, nor any other person or persons whosoever, whether provided with a licence or not, shall be at liberty, at any time, there to shoot or kill any game specified in this proclamation (saving and except the liberty granted by Article eight), under a penalty of fifty rix-dollars for each head of game so shot or killed; and on failure of payment thereof, one month's imprisonment in the town gaol for every such fifty rix-dollars so forfeited and not paid.

10. That any herdsman, shepherd, or other person having the charge of or attending cattle, who shall be found in the fields carrying a gun loaded with shot of a smaller size than those which are commonly known and called by the name of loopers, or who shall be found in the fields with any shot of a smaller size in his custody or possession, shall forfeit such gun; and his master or employer, moreover, be fined in the sum of twenty rix-dollars, together with all costs and expenses attending the prosecution, in case of conviction; or in failure of payment thereof, one month's imprisonment in the gaol of the district in which the offence shall have been committed.

11. That no slave shall, at any time, be permitted to shoot or destroy game, on pain of forfeiture of the gun, or other engine, and a further punishment of one month's imprisonment; the costs and other expenses attending the prosecution to be paid by the master on conviction.

12. And whereas, many persons hire or employ Hottentots, or other free persons, to

shoot for them, in the capacity of gamekeepers, or for the pretended purpose of supplying their table with game, be it hereby further ordered and declared that such Hottentot, or free person, shall not be allowed to shoot upon any other lands than what are *bonâ fide* possessed by his master or employer, unless he be provided with a written permission from the proprietor or occupier of such land, not belonging to his master or employer, as he may wish to shoot upon, under a penalty of one hundred rix-dollars; such fine to be recovered of his said master or employer, together with all costs and expenses attending the prosecution, on such Hottentot or free person being convicted of the offence.

13. That as the employing of the Sabbath-day for the amusement of shooting is a most immoral and profligate practice, it is therefore hereby strictly forbidden to shoot or kill any kind of game, at any season of the year, on a Sunday; and every person, without exception, hereafter convicted of offending herein shall be fined in a penalty of one hundred rix-dollars for the first offence, and three hundred rix-dollars for each repetition after a first conviction.

14. That no live game shall at any time, nor dead game between the 1st July and the 30th November of each year, both days included, be suffered to pass by, or be carried through the toll or barrier gates, without a special permission from the Governor for the time being, under a penalty of fifty rix-dollars, to be recovered of the person in whose custody or possession such game shall be found, together with all costs and expenses attending the prosecution to conviction, or six months' imprisonment in failure of payment thereof.

15. All transgressions against this proclamation shall be respectively prosecuted before the sitting commissioner from the worshipful court of justice or the landdrost and commissioned beemraden of the district in which the offence shall have been committed by the competent officer of such district, and the sentence given in such case shall be subject to rehearing and appeal; provided the defendant, should he feel himself aggrieved thereby, previously complies with the sentence in the first instance, and that such compliance, as well as the deposit of the penalty for a frivolous rehearing or appeal, having been made, shall appear to the court above.

16. All prosecutions resulting from a contravention of this proclamation shall be carried on summarily; and the judge, should he in this particular case feel himself otherwise sufficiently instructed to pass a sentence of condemnation, shall not be bound to the necessity of requiring the oath of two consonant witnesses—a groundless plea, though eagerly resorted to in case where the offence has been committed without being witnessed by a plurality of impartial persons.

17. All contraventions of this proclamation shall be prosecuted by the competent officer within three months from the time the offence shall have been committed; after the expiration of which period all right of prosecution shall cease.

18. And in order as much as possible to encourage the preservation of game, the following rewards shall be given to all such persons as destroy vermin, or other noxious animals, namely:

		rds.	*sks.*
For every tiger	. . . . .	25	0
„ wild dog	. . . . .	5	0
„ wild cat	. . . . .	1	0
„ mousehound	. . . . .	0	4
„ hawk	. . . . .	0	4

These sums shall be paid out of the treasuries of the respective districts in which the vermin or noxious animals shall have been killed, on a certificate from the field cornet or wardmaster of the district, "that the head of such animal has been produced to "him," which certificate must be applied for and obtained, within eight days after the animal, for which the reward is promised, has been destroyed. [Repealed, *vide* Ordnance No. 3 and Ordnance No. 45.]

19. The half of all fines recovered in consequence of contravention of this proclamation shall be paid to the informer, and the other half to the treasury of the district in which the offence shall have been committed, in order to defray the rewards for the destruction of vermin, and other noxious animals, as mentioned in the foregoing article.

20. From the limitations contained in this proclamation, hunting with hounds is exempted, which, as in nowise tending to the destruction of game, is to be allowed, on the same footing as heretofore, provided it be conducted by hunting clubs established under the sanction of His Excellency the Governor for the time being. And that

no person may plead ignorant hereof, this shall be published and affixed in the usual manner.

God save the King.

Given under my hand and seal, at the Cape of Good Hope, the twenty-first day of March, One thousand eight hundred and twenty-two.

By His Excellency's command,

(Signed) C. BIRD, Secretary.

(Signed) C. H. SOMERSET.

AMENDMENT OF GAME LAW.—ELEPHANTS.

(Government Advertisement.)

Notice is hereby given, that in consequence of a representation made to his Excellency the Governor of the injury sustained by inhabitants of the Under Bosjesmans River division, from the numerous elephants in those parts, His Excellency has been pleased to rescind such part of the proclamation of the 21st March last as prohibits the destruction of those animals under a penalty of five hundred rix-dollars in each case.

Cape of Good Hope, 23rd August, 1822.

By command of His Excellency the Governor,

(Signed) C. BIRD, Secretary.

AMENDMENT OF GAME LAW.—ELANDS.

PROCLAMATION by His Excellency General the Right Hon. Lord Charles Henry Somerset, &c., &c.

Whereas, it has been represented to me to be necessary to preserve the few elands which are left in the George district, and which have met with great protection from the landed proprietors in the vicinity of the Attaquas Kloof, but have lately been wantonly dispersed and destroyed by some evil-disposed persons: It is, therefore, hereby ordered that the Regulation which gives protection to the hippopotamus and boutebuck (that is, the 5th Article of the Proclamation of the 21st March, of the year 1822), shall be henceforward also made applicable to the beautiful and scarce species of deer called eland, found in the George district, of which all persons are called upon to take due notice, as the penalty for contravening the same will be most rigidly enforced. And that no person may plead ignorance hereof, this shall be published and affixed in the usual manner.

God save the King.

Given under my hand and seal, at the Cape of Good Hope, this fourteenth day of March, One thousand eight hundred and twenty-three.

By His Excellency's command,

(Signed) C. BIRD, Secretary.

(Signed) C. H. SOMERSET.

No. 29.

NATAL.

Copy of a DESPATCH from Governor KEATE to the EARL OF KIMBERLEY.

(No. 21.)

MY LORD, Government House, Natal, 21st February, 1871.

With reference to your Lordship's Circular Despatch of the 2nd August, 1870, on the subject of the laws in force in this colony as to trespass and the preservation of game, I have the honour to forward a copy of a report I have received from the Attorney-General, to whom I referred that Despatch for the information required.

I have, &c.,

Right Hon. the Earl of Kimberley. (Signed) ROBERT W. KEATE, Lieutenant-Governor.

AFRICAN AND MEDITERRANEAN COLONIES.

Enclosure 1 in No. 29.

The law No. 10, 1866, copy of which I append hereto, is the only law in force in this colony relating to the preservation of game. It also provides against trespass in pursuit of game.

2. It imposes a penalty not exceeding £10 for killing game within certain fixed periods, and imposes a fine, and in default of payment of said fine, imprisonment for trespass on lands in pursuit of game.

3. I annex a copy of the explanatory statement on that law submitted by Acting Attorney-General.

The civil remedy for trespass in pursuit of game is regulated by Roman-Dutch Common Law, which declares that it is permitted to every one on his own property to hunt with dogs or shoot with weapons of any sort, but forbids hunting or shooting on any other person's land without the consent in writing of the owner.

A landowner cannot proceed criminally against one person trespassing in pursuit of game, his only remedy is by civil action. When persons, three or more in number, commit a trespass in pursuit of game, they can be punished criminally.

(Signed) M. H. GALLWAY,
Attorney-General, February 7th, 1871.

Enclosure 2 in No. 29.

STATEMENT ON LAW, No. 10, 1866.

This is the first game law which has been passed in this colony. The game of the colony consists chiefly of the various animals and birds specified in the schedules annexed to this law.

The object of this law is twofold. First, to protect the game during the breeding months. Second, to prevent wilful trespass on private property, and also on crown lands in pursuit of game at any time.

To effect the first object it is prohibited in any way to capture or destroy or disturb, during certain stated months, any of the birds specified in Schedule A, or during other stated months the quadrupeds specified in Schedule B, and as to the quadrupeds and birds specified in Schedule C, in consequence of their great value and scarcity, they are prohibited from being destroyed or captured, or attempted so to be at any period of the year, without the consent of the Lieutenant-Governor, ss. 3.

This latter provision was inserted when the Bill was passing through the House.

The eland, hartebeasts, and ostrich, to which the clause chiefly applies, are now very rare in the colony, and without some such provision would probably soon have become extinct. The secretary bird is, I am informed, valuable for its habit of destroying snakes, with which the colony is everywhere infested.

The penalty for contravening any of the above-mentioned provisions is a fine, at the discretion of the magistrate, but not exceeding £10, and under Ordinance No. 16, 1846 (cited in section 8) this is accompanied with an alternative, in the event of non-payment, of imprisonment for any period not exceeding three months.

Section 5 of this law, however, provides that all of these animals and birds may be destroyed for the *bonâ fide* protection of crops and cultivated lands.

Trespassing in pursuit of game is of frequent occurrence here in consequence of most of the lands being unenclosed; wagon drivers, Kafirs and others are in the practice of shooting game wherever they can find it, and at all seasons, and frequently of burning the grass for the purpose of discovering game; and Kafirs mostly hunt in company with dogs, not only over their own and Crown lands, but also over private property, even against all warning and remonstrance, and commit great damage and large destruction of game.

Section 6, therefore, imposes a penalty not exceeding £10 on every person engaged in bodies of three or more, trespassing either on private or Crown lands for any such object.

Trespass of this nature by one or two persons, is only however left to the private remedy by action of damages according to common law.

Section 7, provides that any person found trespassing in pursuit or search of game shall be compelled to give his name and place of abode under a penalty of £10.

One half of every fine may, by Section 9, be awarded to informers; and prosecutions

under this law, may take place at the instance of private persons, but fines levied are to belong to the Crown.

Some of the provisions of this law have been long needed. So far as it extends, I think it advantageous; the only doubt on my mind thereon is whether a further exemption should not have been included on all points in favour of the *bonâ fide* proprietor of the land.

(Signed) HENRY COPE,
Acting Attorney-General.

Attorney General's Office,
Natal, 3rd September, 1866.

Enclosure 3 in No. 29.

No. 10.—1866.

LAW enacted by the Lieutenant-Governor of Natal, with the Advice and Consent of the Legislative Council thereof, to prevent the Indiscriminate Destruction of certain valuable Wild Animals within the Colony of Natal.

Preamble.

WHEREAS it is expedient to adopt measures to prevent the capture or destruction, during certain seasons of the year, of the divers wild animals specified in the schedules A, B, and C, to this law annexed, and to check trespassing on the lands of private persons and Crown lands, by persons in pursuit of, or with intent to kill or capture, or wilfully disturb, any of the animals above referredto:

Be it therefore enacted, by the Lieutenant-Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:

Certain birds, &c., not to be killed, &c., between 15th September and 15th April.

1. It shall not be lawful for any person within the said colony, from the 15th day of September to the 15th day of April, both inclusive, to capture or destroy, or attempt or aid in capturing or destroying, by nets, springes, gins, traps, or snares, or by any other means, or to shoot or hunt with dogs or otherwise, or in any other manner to kill, or attempt to kill, chase, pursue, or otherwise wilfully disturb, any of the animals specified and set forth in the schedule marked A, to this law annexed.

Certain quadrupeds, &c. not to be killed, &c., between 15th August and 30th November in any year.

2. It shall not be lawful for any person, from the 15th day of August till the 13th day of November, both inclusive, to capture or destroy, or attempt or aid in capturing or destroying, by means of nets, springes, gins, traps, or snares, or by any other means, or to shoot, or hunt with dogs or otherwise, or in any other manner to kill, or attempt to kill, chase, pursue, or otherwise wilfully disturb, any of the animals specified in Schedule B, hereunto annexed.

Certain quadrupeds and birds not to killed, &c., without Governor's permission.

3. It shall not be lawful for any person, at any period during the year, to capture or destroy, or attempt or aid in capturing or destroying, by means of nets, springes, gins, traps, or snares, or by any other means, or to shoot, or hunt with dogs or otherwise, or in any other manner to kill, or attempt to kill, chase, or pursue, or otherwise wilfully disturb, any of the animals specified in Schedule C, hereunto annexed, except by permission of the Lieutenant-Governor.

Penalty.

4. Any person contravening any of the provisions of the three preceding sections hereof, shall be liable to a penalty not exceeding £10 sterling.

Game may be killed to preserve crops, &c.

5. Provided that no person, who shall do or cause to be done any of the acts prohibited in sections 1, 2, and 3 hereof, shall be deemed to have contravened the provisions of said sections 1, 2, and 3 hereof, if such acts shall be done for the *bonâ fide* purpose of protecting growing crops, plantations, gardens, or other cultivated lands.

Three or more persons trespassing in pursuit of game without permission, liable each to a fine of £10.

6. Where three or more persons, at one and the same time, at any period of the year, shall unlawfully trespass on lands belonging to any private person, without the consent of the owner or occupier thereof, or on Crown lands, without the consent of the Lieutenant-Governor or the Resident Magistrate of the county or division within which such lands are situated, with the intent to capture, destroy, or to aid in capturing or destroying, by nets, springes, gins, traps, or snares, or by any other means, or to shoot, or hunt with dogs or otherwise, or in any other manner to kill, chase, or pursue, or otherwise wilfully disturb, any of the animals specified in the schedules marked A, B, and C, to this law annexed, each and every such person shall be liable to a penalty not exceeding £10

AFRICAN AND MEDITERRANEAN COLONIES.

sterling, or, in default of payment thereof, to imprisonment, with or without hard labour, for any period not exceeding three months.

Any person found trespassing in pursuit of game, may be required to leave the lands and give his name. Penalty.

7. Any person found trespassing on any private or Crown lands, in pursuit or in search of any of the animals mentioned in schedules A, B, and C, hereto annexed, with or without dogs, may be lawfully required by the owner or occupier of such private lands, or any servant or other person empowered by such owner or occupier, or, in the case of Crown lands, such trespasser may be required by any resident magistrate, field cornet, or constable, forthwith to quit such private or Crown lands, and also to state his real name and place of abode; and any person who shall refuse or wilfully delay to quit such lands, on being required so to do, or to state his true name or place of abode, shall be liable to a penalty not exceeding £10 sterling, or, in default in payment thereof, to imprisonment for any period not exceeding three months.

Contraventions of this law to be prosecuted by any private person before Court of Resident Magistrate or Branch Court.

8. All contraventions of any of the preceding sections of this law may be prosecuted by any private person before the Court of any resident magistrate having jurisdiction, in accordance with the provisions of Ordinance No. 16, 1846, entitled "Ordinance for creating Resident Magistrates within the District of Natal," or before any Branch Court, in accordance with the provisions of Law No. 6, 1859, entitled "Law to provide for the holding of Branch Courts by Resident Magistrates."

Fines to belong to Her Majesty. Moiety may be awarded to informer.

9. All fines and penalties levied in virtue of any of the preceding sections hereof shall belong to Her Majesty, her heirs and successors, and shall be applied to the uses of the Government of this Colony: Provided it shall be lawful for such resident magistrate to award one-half of any such fine or penalty to any informer, by whose information any person shall be convicted of contravening any of the provisions of any of the preceding sections of this law.

Take effect from promulgation.

10. This law shall commence and take effect from and after the promulgation thereof in the *Government Gazette* of this colony.

SCHEDULE A.

Schedules.

All varieties of the birds undermentioned, and termed or known in this colony as—the partridge, pheasant, pauw, korhan, guinea fowl, crane.

SCHEDULE B.

The buffalo, quagga, bonte quagga (or zebra), hares, and all varieties of the antelope genus, generally termed or known in this colony as—the impala, rietbok, rheebok, steenbok, ouribi, boschbok, bluebok, klipspringer, duiker.

SCHEDULE C.

The eland, hartebeest, ostrich, secretary-bird, turkey-buzzard, known as the insingisi.

Given at Government House, this Third day of August, 1866.

By command of His Excellency the Administrator of the Government.

(Signed) D. ERSKINE,
Colonial Secretary.

No. 30.

ST. HELENA.

COPY of a DESPATCH from Governor REAR-ADMIRAL PATEY to the EARL of KIMBERLEY. No. 30.

(No. 78.)

MY LORD, St. Helena, 20th September, 1870.

In obedience to the directions conveyed to your Lordship's Circular Despatch, dated 2nd August last, I have the honour to transmit copies of the enactments in force in this island as to trespass and also as to the preservation of game, viz.:

No. 13 of 1838. An ordinance for consolidating and amending the local laws of St. Helena relative to cattle and sheep depastured on the waste lands of the Crown, and for the prevention of trespass.

No. 2 of 1847. An ordinance relative to sheep and other animals found trespassing on the sides of the hills adjacent to James Town.

No. 3 of 1868. To amend and consolidate the laws relating to game.

No. 1 of 1870. To extend the period of licences to shoot game.

The above ordinances relating to trespass refer almost exclusively to cattle and sheep depastured on the waste lands of the Crown. In all other cases of trespass the proceedings are regulated by the law of England, so far as it is applicable.

I have, &c.,

(Signed) CHAS. PATEY, Rear-Admiral,
Governor.

Right Honourable the Earl of Kimberley.

Enclosures in No. 30.

Enclosure in No. 30.

No. 13.—1838.

AN ORDINANCE by His Excellency the GOVERNOR in Council for consolidating and amending the Local Laws of St. Helena, relative to Cattle and Sheep depastured on the Waste Lands of the Crown, and for the prevention of Trespass.

Preamble.

WHEREAS, the inhabitants of St. Helena, occupiers of land, have heretofore been permitted to turn their cattle and sheep upon such of the waste lands of the island as were not appropriated for agricultural or other purposes: and whereas, it is expedient to remedy various abuses, which have taken place in the exercise of such permission:

No horse, mule, ass, goat, or swine, to be turned on waste lands, and that no person occupying less than ten acres shall keep cattle or sheep thereon.

Be it declared and enacted, that no horse, mule, ass, goat, or swine shall be turned loose, or kept upon any of the unappropriated waste lands of the Crown; and that no person not in the occupation of ten acres of land shall keep or turn loose upon the said waste lands any cattle or sheep:

Occupiers of ten acres and upwards, not to keep more than one sheep for every two acres, and one head of cattle for every four acres.

And be it enacted, that no person in the occupation of ten acres of land shall keep or turn loose upon the said waste lands more than one sheep, above the age of six months, for every two acres of land, and one head of cattle above the age of six months, for every four acres of land, of which he shall so be in the possession: Provided always, and be it further enacted, that no person shall turn loose any cattle commonly called "black cattle," upon any of the said waste lands, between the 1st of November and the 1st of March in every year, nor any stock whatever at any time, in any of the divisions of the island (hereinafter described), in which he or she shall not be in the occupation of ten acres of land, nor on the sides of Ladder Hill and Rupert's Hill, above James' Town:

No black cattle to be turned on any waste lands between the 1st Nov. and 1st March.

Not to turn cattle, &c., in any other district than where possessed of lands. Nor on Ladder Hill or Rupert's Hill.

And be it enacted, that if any person shall turn loose or keep upon the waste lands aforesaid any stock whatever, contrary to the enactments hereinbefore made, the stock so turned loose or kept shall be liable to be impounded, and the owner or proprietor thereof shall be subject to the penalties hereby imposed for cattle found trespassing:

And be it enacted, that the ancient division of the island into three divisions, called Eastern, Western, and Southern Divisions; the Southern division, extending to the south of a line drawn from Long Range, through Rock Rose Hill, along the main ridge by Diana's Peak, High Peak, Thompson's Wood Hill, to a place called the Church Yard, and the Eastern and Western divisions, comprising the remainder of the island, and divided by a line drawn through James' Valley to Francis' Plain Waterfall, and thence

AFRICAN AND MEDITERRANEAN COLONIES.

by the Valley of Sitches Water, to the main ridge at Sitches Gate, shall be for all the pu poses of this Ordinance the recognised divisions of the island:

When stock liable to be impounded.

Divisions of the island.

Churchwardens within one month, and annually, afterwards, to appoint inspectors and shepherds.

And be it enacted, that the churchwardens shall, within one month from the passing of this Ordinance, and at their annual vestry meeting in every succeeding year, in Easter week, appoint one inspector, and a sufficient number of shepherds for each of the said divisions: Provided always, that in case the churchwardens shall refuse or neglect to appoint such inspectors and shepherds as aforesaid, or in case such appointments shall not be satisfactory to the inhabitants of the respective districts, then and in such case it shall be lawful for any two Justices of the Peace to confirm the appointment, or appoint any new, or other inspector or shepherds, as the case may be:

Churchwardens neglecting, magistrates to appoint.

When payment to inspectors and shepherds ordered by magistrates.

Proviso in case of neglect of payments.

And be it enacted, that in case of the appointments of any inspectors or shepherds by any such Justices of the Peace as herein mentioned, it shall be lawful for such Justices of the Peace to order and direct such salary or sum of money to be paid by the owners or proprietors of stock turned loose or kept upon the waste lands of the division for which such inspectors or shepherds respectively shall be so appointed to the person or persons so appointed, as to such Justices shall seem meet: Provided always, that if such owners or proprietors shall not agree among themselves as to the proportion of such salary, for which they shall be respectively liable, or if such salary shall not be paid to such inspectors and shepherds respectively, within fourteen days after the time or times when such salary or sum of money shall be ordered to be paid, it shall be lawful for any two Justices of the Peace to fix such proportions, and by warrant under their hands and seals, to order the same to be levied by the distress and sale of the stock of the person or persons who shall neglect or refuse to pay his or her proportion thereof, then grazing upon such waste lands:

Justices to appoint extra shepherds if required.

And be it enacted, that in case it shall be made to appear to any two Justices of the Peace, on the complaint of any person, that the number of shepherds for any of the said divisions shall not be sufficient for the proper care and attendance of the stock in such division, then and in such case it shall be lawful for such Justices of the Peace to appoint such and so many additional shepherds as to them shall seem expedient, such additional shepherds to be paid by a salary to be ordered by any two Justices, in the manner hereinbefore lastly mentioned:

Inspectors to make annual reports, on the first Monday in every year.

Inspectors to visit the sheep pounds every three months, and report, &c.

And be it enacted, that the inspectors so to be appointed as aforesaid shall, on the first Monday in every year, make a report in writing to the magistrates, at the police office, stating therein the quantity and description of stock that have been commoned during the preceding year, the names of the proprietors, and the capabilities of the waste lands for their support; and that such inspectors respectively shall once at least in every three months visit and inspect the sheep pounds in their respective districts, on some or one of the days in which sheep are impounded, and shall report to the magistrates aforesaid the names of those persons who shall have omitted to brand and keep branded their sheep, and generally of all infringements which shall have been made, contrary to the provisions of this Ordinance:

Penalty for churchwardens not appointing, and inspectors not reporting.

And be it enacted, that in case the churchwardens shall refuse or neglect to appoint such inspectors and shepherds as hereinbefore mentioned, or in case such inspectors, or any or either of them, shall neglect or refuse to make such report respectively as aforesaid, the person or persons so offending shall, on conviction thereof before any two magistrates, forfeit and pay such sum of money, not exceeding the sum of five pounds, as to such magistrates shall seem meet:

Waste lands overstocked, magistrates may order an abatement of stock.

And be it enacted, that if at any time it shall be made to appear to the satisfaction of any two magistrates that the unappropriated waste lands in any division are insufficient to support the quantity of stock usually kept there, it shall be lawful for such magistrates to order such a diminution or abatement of such stock as to them shall seem meet, and the proprietors of lands in such districts shall abate the quantity of stock which they shall keep on such waste lands, in proportion to the number of acres of land which they shall respectively occupy:

Cattle, sheep, swine, and goats to have an ear mark.

Sheep to be branded.

Ear marks and brand marks to be registered.

And be it enacted, that all cattle, sheep, swine, and goats above the ages of six months shall be marked with the ear mark of the owner or proprietor. That all sheep shall be branded on both sides, with the initials of the owner, in letters of not less than six inches in length, and of a proportionate breadth, of a white colour, if the sheep shall happen to be black, and of a red or black colour if the sheep shall happen to be white. And that all ear marks and initials or brand marks shall be registered in the police office. And that no person shall have more than one ear or brand mark for each of which register the sum of one shilling shall be paid to the clerk to the magistrates:

Penalty for neglect to mark and brand.

And be it enacted, that in case any person shall refuse or neglect to mark and brand, and keep marked and branded, their cattle, sheep, swine, or goats, as hereinbefore mentioned, the person or persons so offending shall, on conviction thereof before any

two magistrates, forfeit and pay the sum of five shillings for every animal so unmarked and unbranded:

Animals trespassing without being marked, to be sold by auction.

And be it enacted, that in case any animal shall be found trespassing without being marked and branded, in pursuance of this Ordinance, it shall be lawful for any magistrate to order the same to be sold by public auction, and the produce thereof paid to the churchwardens for the benefit of the poor of the island:

No sheep to be impounded, except for trespass, without notice.

And be it enacted, that no sheep upon the said appropriated waste lands shall be impounded, except for trespass, without twenty-four hours' previous notice for that purpose being given to the inspector of the division in which such sheep proposed to be impounded shall be then ranging, and to two or more of the principal proprietors of sheep therein:

And be it declared and enacted, that if any sheep shall be impounded on the said waste lands, or taken or driven therefrom (except for trespass or on the public days appointed for impounding), without twenty-four hours' previous notice thereof being given to the inspector of the division, and to two or more of the principal proprietors of sheep therein, the person or persons so offending shall, on conviction thereof before any two magistrates, forfeit and pay the sum of five pounds:

Penalty for breach of the same.
Penalty for sheep trespassing.

And be it enacted, that in case any sheep shall be proved to the satisfaction of any two magistrates to have trespassed upon any gardens, pleasure ground, or cultivated land, the owner or proprietor of such sheep shall forfeit and pay the sum of two shillings and sixpence for every sheep which shall have so trespassed: Provided always, and be it enacted, that such payment, together with the costs, shall be a bar to all further or other proceedings for the same cause:

Stock impounded in private pound, notice to be given to owners.

And be it enacted, that in case any horse, ass, cattle, mule, sheep, swine, or goat found trespassing, shall be impounded in a private pound, the person or persons so impounding shall forthwith give notice thereof to the proprietor of the animals so impounded, under a penalty of twenty shillings, to be levied by the order of any one magistrate:

Stock impounded in public pound, owners to pay 2*s.* 6*d.* each.

And be it enacted, that in case any horse, ass, mule, cattle, sheep, swine, or goat shall be impounded in a public pound, the owner or proprietor thereof shall previously to such animal being released pay to the pound-keeper two shillings and sixpence for every animal so impounded, one shilling whereof to be retained by the pound-keeper, and the remaining one shilling and sixpence paid over to the person whose land shall have been trespassed upon:

Public poundkeeper allowed 1*s.* per day for feed of stock.
Proviso to find sufficient food.
Penalty.

And be it enacted, that the public pound-keeper, or other person having the charge of any stock so impounded as aforesaid, shall be entitled to one shilling per day for every animal that may be kept in the pound beyond the period of twenty-four hours: Provided always, that if such pound-keeper shall neglect to provide sufficient wholesome food for the sustenance of the stock so impounded, the person so offending shall, upon conviction thereof before any magistrate, forfeit and pay to the owner of the same stock such sum of money not exceeding five pounds as to such magistrate shall seem meet:

Animals not claimed to be sold by public auction.

And be it enacted, that it shall be lawful for any magistrate to order any animal that shall have been in any public pound beyond the period of forty days, to be sold by public auction, and the produce thereof, after paying the pound and trespass fees and the costs, to be paid to the churchwardens for the benefit of the poor of the island:

Swine, goats, or poultry, trespassing, may be shot after notice.
Swine or goats trespassing on sides of Ladder Hill and Rupert's Hill to be destroyed.

And be it enacted, that in case any swine, goats, or poultry, shall be found trespassing in any garden, nursery, or other cultivated ground, it shall be lawful for the owner or proprietor of such garden, nursery, or other cultivated ground, to shoot or otherwise destroy them. And in case any swine or goats shall be found trespassing, or being on the sides of Ladder Hill or Rupert's Hill, above James' Town, it shall be lawful for any constable, provost, or police officer, to shoot or otherwise destroy such swine or goats: Provided always, that no swine, goat, or poultry shall be shot or otherwise destroyed unless a previous notice of such intention to shoot or destroy shall have been given to the owner or proprietor thereof:

Dogs worrying sheep or cattle.
Penalty.

And be it enacted, that if any dog shall be found killing, wounding, or worrying any sheep or cattle, it shall be lawful for any magistrate to impose a penalty of not exceeding two pounds for every sheep so worried, wounded, or killed, without prejudice to any action at law which the party complaining may have for damages:

Stallions or rigs not to be turned loose near public roads.
Penalty.

And be it enacted, that in case any stallion or rig shall be turned loose in any open place, adjacent to any public road, the owner or proprietor thereof shall forfeit and pay for every such offence the sum of five pounds, without prejudice to any action for damages which mya be brought by any person or persons injured thereby:

And be it enacted, that in case any forfeitures or penalties imposed or made payable by this Ordinance, together with the costs, shall not be paid either immediately after

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the conviction, or within such period as the convicting magistrate shall appoint, it shall be lawful for such magistrates to commit the offender to the common gaol, there to be imprisoned only, or to be imprisoned and kept at hard labour, according to the discretion of the magistrates, for any term not exceeding one month:

In case of non-payment of penalties, &c., offenders to be imprisoned.

And be it enacted, that the Proclamation of 6th October, 1837, and all the local laws mentioned and comprised in the book called "The Bye-laws," under the following heads: "Goats," "Hogs," "Horses," "Pounds," "Marks upon Cattle," "Trespass," "Waste Lands or Commons," and "Sheep," shall (except so far as the same relate to or concern any taxes or duties) be and the same are hereby repealed:

Former laws repealed.

Ordinance not to affect rights and prerogatives of the Crown.

And be it lastly enacted, that nothing herein contained shall affect or be construed or considered to affect the rights and prerogatives of Her Majesty, her heirs and successors, as lords proprietors of the island, to grant, sell, alienate, ease, or otherwise appropriate all or any of the waste lands of the island.

Given at St. Helena, this 23rd day of May, in the year 1838.
By order of His Excellency the Governor in Council.
(Signed) R. F. SEALE, Colonial Secretary.
(Signed) G. MIDDLEMORE.

God save the Queen.

No. 2, of 1847.

BY HIS EXCELLENCY the Governor of St. Helena, with the Advice and Consent of the Council, an ORDINANCE relative to Sheep and other Animals found trespassing on the Sides of the Hills adjacent to James Town, in the Island of St. Helena.

WHEREAS the lives of persons travelling on the Side Path and Ladder Hill Roads, as also of persons in James' Town, have been frequently endangered by the falling of stones, which have been loosened and thrown down by sheep and other animals trespassing on the sides of Rupert's Hill and Ladder Hill: and whereas it is expedient to provide for the safety of the public in this respect:

Now be it therefore enacted by His Excellency the Governor, with the advice and consent of the Council, that in case any sheep, goats, or swine shall, at any time after the passing of this Ordinance, be found trespassing or being on the sides of Rupert's or Ladder Hill, above or adjacent to any part of James Town aforesaid, it shall be lawful for any constable, provost, or police officer to shoot or otherwise destroy such sheep, goats, or swine.

And be it further enacted, that the carcass of every sheep so shot or otherwise destroyed as aforesaid shall be given—one-half to the police, and the other half to the poor of the parish.

And whereas the welfare of Her Majesty's subjects within this Colony urgently requires that this Ordinance should have immediate operation therein:

Now be it therefore lastly enacted, that this Ordinance shall be in force from and after the date of the promulgation thereof.

Given at St. Helena, this 25th day of February, in the year of our Lord 1847.
By command of His Excellency the Governor.
(Signed) R. C. PENNELL, Colonial Secretary.
(Signed) PATRICK ROSS.

God save the Queen.

AFRICAN AND MEDITERRANEAN COLONIES.

No. 3, of 1868.

AN ORDINANCE made by the GOVERNOR of St. Helena to amend and consolidate the Laws relating to Game.

1. WHEREAS it is expedient to amend and consolidate the laws relating to game. Be it enacted as follows:

Former ordinances repealed.

2. The Ordinance No. 9, dated 13th January, 1838, entitled "An Ordinance to amend "the Laws in St. Helena relative to Game," the Ordinance No. 2, dated 21st February, 1856, entitled "An Ordinance to suspend until the 1st day of April the issuing of "Licences to kill Game," and the Ordinance No. 1, dated 16th January, 1867, entitled "An Ordinance to regulate the season for killing Game," shall be and the same are hereby repealed.

Licence to kill game.

3. Every person who intends to use or shall use any dog, gun, or other engine, for the purpose of taking or killing game, shall before he shall use the same in any year pay or cause to be paid in each year to the Receiver-General for the time being the sum of money hereby made payable, and shall obtain a licence for that purpose from the Colonial Secretary.

Governor may suspend the issue of licences.

4. It shall be lawful for the Governor in Council in any year as to him shall seem expedient for the preservation of game either to suspend the issue of any licences to kill game, or for the preservation of pheasants to limit the licences issued to the shooting of partridges and rabbits only.

Sums payable for shooting licences.

5. The sums of money payable to the Receiver-General for licences to kill game shall be as follows:

For a licence to kill pheasants, partridges, and rabbits from 1st April to 15th May, the sum of three pounds.

For a licence to kill partridges and rabbits from the 1st April to the 15th May, in those years when the Governor may have suspended the issue of licences to kill pheasants, the sum of two pounds.

Preserves.

6. It shall be lawful for the Governor in Council at any time or times to declare (such declaration to be signified in the licence) that any part or parts of the Crown lands, or of any private lands (the proprietors thereof consenting thereto) which to him shall seem expedient shall be set apart for the preservation of game; and any person whatsoever who shall kill or destroy any game, or use any dog, gun, or engine for the purpose of searching for or killing any game on the lands so declared to be set apart for the preservation of game, shall on conviction thereof before two Justices of the Peace forfeit and pay for every such offence such sum of money not exceeding ten pounds, as to such Justices shall seem meet.

Licensed persons may sport over waste lands.

7. It shall be lawful for all persons who shall have taken out a licence to kill game to sport over all of such waste lands of the Crown as shall not have been declared preserves as aforesaid.

Right of landlord and tenant to shoot game.

8. In all cases where any person shall occupy any land under any lease or agreement, as well the landlord as the person so occupying, they being duly licensed, shall have the right of killing or taking game upon the said land except where such right has been expressly disallowed by such lease or agreement.

Penalty for trespassing.

9. If any person whatsoever shall commit any trespass by entering or being upon any land in search of or pursuit of game, such person on conviction thereof before two Justices of the Peace shall forfeit and pay such sum of money not exceeding two pounds as to such Justices shall seem meet. Provided that if any person who shall so be found trespassing shall refuse forthwith to quit the said land when lawfully required so to do, or shall offend by afterwards wilfully returning upon the said land, it shall be lawful for the party so requiring as aforesaid, and also for any person acting by his order and in his aid, to apprehend such offender and to convey him, or cause him to be conveyed as soon as conveniently may be before a Justice of the Peace; and such offender (whether so apprehended or not) upon being convicted of any such offence before a Justice of the Peace shall forfeit and pay such sum of money not exceeding five pounds as to the convicting Justice shall seem meet.

Penalty for continued trespass.

Penalty for shooting or destroying game without licence.

10. If any person shall kill or take any game or use any dog, net, gun, or other engine or instrument for the purpose of searching for or killing or taking game, such person not being authorized so to do for want of a licence, every such person shall on conviction thereof before two Justices of the Peace forfeit and pay for every such offence such sum of money not exceeding ten pounds nor less than three pounds as to the said Justices shall seem meet.

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11. Any person who shall sell or offer for sale any game and any person who shall buy the same shall on conviction before two Justices of the Peace forfeit and pay for every head of game so sold or offered for sale, and for every head of game so bought, such sum of money not exceeding two pounds as to the Justices shall seem meet.

Selling game prohibited.

Penalty for destroying or taking eggs of game.

12. If any person shall wilfully take out of the nest or destroy in the nest the eggs of any bird or game, or shall knowingly have in his or her possession any such eggs so taken, every such person shall on conviction thereof before any two Justices of the Peace forfeit and pay for every egg so taken or destroyed, or so found in his or her possession, such sum of money not exceeding five shillings as to the said Justices shall seem meet.

Killing of game on Sundays prohibited.

13. If any person whatsoever shall kill or take any game, or use any dog, gun, net, or other engine or instrument for the purpose of killing or taking any game, on a Sunday, such person shall on conviction thereof before two Justices of the Peace forfeit and pay for every such offence such sum of money not exceeding five pounds as to the said Justices shall seem meet.

Forfeiture of licence for breach of game laws.

14. If any person licensed to shoot game by virtue of this Ordinance shall during the period of such licence be convicted of any offence whatever against the provisions of this Ordinance, the licence issued to the person so offending shall be forfeited.

Half penalties to informer.

15. One moiety of every penalty and forfeiture for any offence against this Ordinance shall be paid to the person or persons upon whose information the offender shall have been convicted.

What shall be deemed game.

When and by whom rabbits may be shot without licence.

16. The word "Game" shall for all the purposes of this Ordinance be deemed to include pheasants, partridges, and rabbits: Provided always, that any person may shoot rabbits on his own land, or on the lands of those from whom he may receive permission, at any time between the 15th day of May in any year and the 31st day of March following without obtaining a game certificate.

Given under the Public Seal of the Island of St. Helena, this 24th day of December, in the year of our Lord One Thousand Eight Hundred and sixty-eight.

By command of his Excellency the Governor.

(Signed) H. R. JANISCH, Acting Colonial Secretary.

(Signed) CHARLES ELLIOT.

God save the Queen.

No. 1, of 1870.

AN ORDINANCE by the Governor of St. Helena to extend the Period of Licences to Shoot Game.

Preamble.

WHEREAS, by an Ordinance, No. 3, of 1868, made and passed on the 24th of December, 1868, entitled "An Ordinance to amend and consolidate the Laws relating to Game," the period for killing game is therein fixed from 1st April to 15th May; and whereas certain landholders and sportsmen of this island have made application to his Excellency the Governor to extend the period for shooting game to three months as formerly, and it is expedient to comply with their request provisionally: Be it enacted as follows:—

Shooting licences may be issued for three months.

1. It shall be lawful for the Governor in Council to order the issue of licences to kill partridges and rabbits from the 1st March to the 31st May, and pheasants from the 15th April to the 31st May in any year, on payment to the Receiver-General of the sum of three pounds.

Rabbits may be shot under certain conditions without game certificate.

2. So much of the before-mentioned Ordinance as provides that any person may shoot rabbits in his own land or on the lands of those from whom he may receive permission at any time between the 15th day of May in any year and the 31st day of March following without obtaining a game certificate, shall be and the same is hereby repealed; and it is hereby enacted that any person may shoot rabbits on his own land or on the lands of those from whom he may receive permission at any time between the 31st day of May in any year and the 1st day of March following without obtaining a game certificate.

Issue of licences may be limited or suspended.

3. Whenever in any year it shall appear to the Governor to be expedient for the preservation of game to limit or to suspend the issue of licences to kill game then and during any such year all the provisions of the before mentioned Ordinance, No. 3, of 1868, shall remain and continue in full force.

4. And whereas the welfare of Her Majesty's subjects within the said island urgently requires that this Ordinance should have immediate operation therein, Be it therefore enacted that this Ordinance shall take effect and be in force from and after the date of the promulgation thereof.

Ordinances to have immediate operation.

Given under the Public Seal of the Island of St. Helena, this 28th day of February, 1870.

By command of his Excellency the Governor.

(Signed) H. R. JANISCH, Colonial Secretary.

(Signed) CHARLES G. E. PATEY.

God save the Queen.

EASTERN COLONIES.

Eastern Colonies.

No. 31.

No. 31.
CEYLON.

COPY of a DESPATCH from Governor SIR HERCULES ROBINSON to the EARL of KIMBERLEY, K.C., M.G.

(No. 291.) Queen's House, Colombo, Ceylon,
12th December, 1870.

MY LORD,

I have the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 2nd August last, calling for information as to the laws in force in this colony as to Trespass, and as to the Preservation of Game.

From the enclosed letter from the Queen's Advocate, it will be seen that there are no general enactments on the subject in Ceylon, and that the laws bearing on them are those contained in Ordinances No. 2, of 1835; No. 6, of 1846; and No. 13, of 1869, copies of which are enclosed. I enclose also copy of a letter from Mr. Birch, late Government agent for the Eastern Province, the representations contained in which led to the enactment of the last-mentioned Ordinance, No. 13, of 1869, "To prevent the wanton destruction of Elephants, and to restrict their removal from the island."

I have, &c.,
(Signed) HERCULES ROBINSON.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Enclosure 1 in No. 31.

Enclosures in No. 31.

(No. 277.) Queen's Advocate's Office, Colombo,
28th November, 1870.

SIR,

I have the honour to acknowledge the receipt of your letter, No. 228, of the 9th September last, referring to me for report the accompanying copy of a Circular Despatch, dated the 2nd August, received from the Secretary of State for the Colonies, requesting information as to the laws in force as to trespass, and also as to the preservation of game.

In reply, I have to inform you that we have no general enactments on the subjects, and the only laws bearing on them are those contained in Ordinances No. 2, of 1835, No. 6, of 1846, and No. 13, of 1869.

No. 2, of 1835, provides means for the protection of cultivated and enclosed lands, and of the public roads and canals, against the trespass and depredations committed by stray cattle, goats, sheep, and pigs.

No. 6, of 1846, is the Ordinance relating to malicious injuries, taken principally from 7 and 8 George 4, chap. 30: 7 William 4 and 1 Victoria, chap. 89 and 90, and 20 and 21 Victoria, chap. 3. Section 20 provides that the provisions of the Ordinance do not apply to any trespass, not being wilful and malicious, committed in hunting or in the pursuit of any other sport or diversion.

Ordinance No. 13, of 1869, was enacted to prevent the wanton destruction of elephants, and to restrict their removal from the island.

* * * * * *

I am, &c.,
The Hon. the Colonial Secretary. (Signed) RICHARD F. MORGAN.

Enclosure 2 in No. 31.

ORDINANCE enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof.

No. 2.—1835.

To provide for the Protection of Cultivated and Enclosed Lands and of the Public Roads and Canals, against the Trespass and Depredations of Stray Cattle, Goats, Sheep, and Pigs.

Preamble. WHEREAS, for want of adequate means of prevention and of redress, the proprietors of cultivated and enclosed lands in these settlements have for many years been exposed

to considerable damage by trespass and depredations committed on their lands by stray cattle, goats, sheep, and pigs, and the public roads and canals have been in like manner materially injured: and whereas it is essential for the protection as well of public roads and canals as of the agricultural interests of the settlements, that effectual means should be devised both for the prevention of such trespass and depredations, and for enabling proprietors of land with greater ease and certainty to recover damages for the injuries thereby sustained: and whereas, by the Regulation No. 9, of the year 1833, these objects were partially provided for as regards certain parts of the Island, but it is desirable that one uniform system should be prescribed, applicable to and capable of being enforced in all parts of Ceylon.

Regulation No. 9 of 1833, repealed.

1. It is therefore hereby enacted, by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the first day of July next, the Regulation No. 9, of the year 1833, entitled "To provide for the case of cattle, goats, and sheep, found straying within the gravets of Colombo, Galle, Mâtara, Trincomalee, Jaffna, or Kandy," be repealed.

Stray cattle, &c., to be seized.

2. And it is further enacted, that from and after the said first day of July next, it shall and may be lawful for any proprietor or tenant, or any other person by his direction, of any land, garden, plantation, or field under cultivation, and fenced in such manner as the local custom may require, or without any fence, if by the established local custom no fence is required, and in respect to the Government preserved cinnamon plantations of Marandahn, Ekele, Kadirane, and Morotto, for any person thereto duly authorized to seize any cattle, goats, sheep, or pigs found straying therein, and to tie up and detain such cattle, goats, sheep, or pigs, until the owner thereof shall have been ascertained, and the damages, if any, occasioned by such trespass assessed in manner hereinafter mentioned, and the fair expense of the keep of each and every such cattle, goats, sheep, or pigs during their lawful detention as aforesaid, may be recovered as hereinafter mentioned.

Mode of procedure on such seizure when damage sustained.

3. And it is further enacted, that the owner or person in charge of such stray cattle, goats, sheep, or pigs shall be liable to the proprietor or tenant of such land for the full amount of damages by him sustained in consequence of the trespass, and if the said trespass shall have been committed in the night time, he shall be further liable to pay a fine to the King equal to the amount of the damages awarded; the damages to be assessed and the penalty to be levied in manner following, that is to say: Notice of the seizure of such cattle, goats, sheep, or pigs shall forthwith be given to the nearest constable, police vidahn, or local headman, who, if he be not the principal resident headman of the village or district, shall without delay give information thereof to the principal headman of the village or district, if such principal headman be resident at the time within ten miles, and such headman shall, as soon as may be, repair to the spot, and with the assistance of three or more respectable persons of the neighbourhood, if the attendance of such persons can be procured (otherwise without their assistance), ascertain to whom the cattle, goats, sheep, or pigs belong, and the nature of the trespass committed, and assess the amount of damages thereby sustained, and forthwith furnish the land proprietor, or other person on his behalf, with a report of the particulars of such trespass, and the amount of such assessment, and the names of the persons by whom such assessment shall have been made, for production before the district court; and unless the parties shall agree in the amount so assessed, the report shall be produced before the district court, but shall not be received in evidence unless verified on the oath of such headman in open court; and the said district court, after summarily hearing the parties, and the witnesses whom they may bring with them, or any others whose evidence the court may think fit to require, shall award such damages as shall be proved to have been sustained, together with the charges for keep in the last preceding clause mentioned, and, further, a fine of equal amount in case the trespass shall have been committed in the night time, which damages and penalty shall be levied by distress, if not otherwise discharged.

When no damage.

4. And it is further enacted, that in any case where trespass shall be proved to have been committed as hereinbefore mentioned, whether any damage shall be proved to have been sustained in consequence of such trespass or not, it shall be lawful for the district court in its discretion to award a fine not exceeding Ten shillings for each head of cattle, goats, sheep, or pigs, which shall be proved to have been trespassing, to be paid by the owner or person in charge thereof; and it shall be competent to the said court in its discretion to direct that a share, not exceeding half of such fine, be paid to the owner or occupier of the land, and the remainder to the King.

When cattle, &c., cannot be seized.

5. And it is further enacted, that where the proprietor of such cultivated land, or the tenant or occupant thereof, or other person on his or their behalf, is unable to secure such stray cattle, goats, sheep or pigs, but can satisfactorily prove the trespass and

EASTERN COLONIES.

identify the cattle, goats, sheep, or pigs, or the owners or persons in charge thereof, such owners or persons in charge shall nevertheless be liable, notice being given of the trespass in the manner directed in the third clause of this Ordinance, to the like penalty and damages, and the course of proceeding in respect thereof shall be similar, as far as the circumstances admit, to that in the said third clause directed.

Notice of seizure required.

6. Provided always, that all right to the benefits of this Ordinance, in respect to the charges and damages in the preceding clauses mentioned, shall be forfeited, unless the notice thereby required shall have been given within forty-eight hours from the time of seizure or trespass done as therein respectively mentioned, to the constable, police vidahn, or local headman, if any shall be resident within ten miles, or if no headman be resident within that distance, then within a reasonable period after the seizure or damage done, and unless such land, field, garden, or plantation be protected by such fence, if any, as the local custom may prescribe.

Cattle to be branded or marked, and description of marks to be furnished yearly.

7. And in order to facilitate the identifying of cattle, it is further enacted, that from and after the said first day of July next, every person possessing cattle, not already branded or marked, and being eighteen months old or upwards, shall cause the same to be branded or marked, and shall furnish within three months from and after the said first day of July and thereafter yearly and every year, in the month of January, a correct description of the mark or marks with which his cattle are branded, to the principal headman of the village or district; in default thereof he shall be liable to a penalty not exceeding Three shillings for every omission to furnish such description or account, and a penalty not exceeding Sixpence for every head of cattle not branded or marked, one moiety of such penalty or penalties, on conviction before the district court, to be paid to the informer, and the residue to the use of our Lord the King.

Punishment for wilfully driving cattle, &c., on land.

8. And in order to prevent false and unfounded complaints on the part of land proprietors and others, it is further enacted, that whenever it shall appear to the satisfaction of the district court before which the complaint is preferred, that such cattle, goats, sheep, or pigs were wilfully driven, or had entered upon the land, by or with the connivance of the proprietor, tenant, or occupant of such land, or by any other person, such proprietor, tenant, or occupant, or other person, shall be liable to such punishment by fine, imprisonment with hard labour, or whipping, as the district court shall award.

When cattle may be shot.

9. And whereas it may sometimes happen that cattle committing trespass cannot be seized or identified, so that the owner thereof may be known, it shall be lawful for the district judge, or, if the place where such trespass is committed shall be more than ten miles from the district court, then for the principal headman having local authority, and none other, to grant permission in writing for the shooting of any stray cattle, if it shall be made satisfactorily to appear to the district judge or headman that such cattle are in the habit of trespassing, and cannot be seized or identified so that the owner thereof may be proceeded against, and thereupon such district judge or headman may at his discretion direct some fit person to proceed to the land, field, garden, or plantation, as aforesaid, who shall first endeavour by every reasonable exertion to seize and identify such cattle then or afterwards found committing trespass, and if he, being duly assisted by the landowner or others on his behalf, shall find it impracticable to seize or identify such cattle, then, and not otherwise, he shall shoot or otherwise destroy or cause the same to be shot or otherwise destroyed in his presence: provided that such order shall not be in force more than one month from the date thereof, and that in all cases where any such order is given by the principal headman as aforesaid, he shall within forty-eight hours transmit a duplicate thereof to the district judge, in failure whereof he shall be liable to such damages or other punishment as the court may award; and when any district judge shall make such order as aforesaid he shall enter the same in his diary.

Pigs straying in cultivated fields, &c., may be destroyed.

10. And it is further enacted, that it shall and may at all times be lawful for any land proprietor or tenant, or other person by his direction, to destroy any pigs found straying within the limits of his cultivated field or enclosed land, garden, or plantation; and for any person duly authorized there to destroy any pigs found straying in the Government preserved cinnamon plantations aforesaid.

Or straying on roads or canals.

11. And for the better protection of the public roads and canals, it is further enacted, that it shall and may be lawful for any constable or police vidahn or local headman, or any other person acting under his or their directions, to destroy any pigs found straying upon, burrowing, or wallowing in any public road, or in any public canal, or on the borders or banks of any public road or canal.

Procedure on seizure of cattle, &c., within towns.

12. And it is further enacted, that it shall and may be lawful for any person to seize any cattle, goats, sheep, or pigs found straying in the streets, roads, thoroughfares, and public places within the Gravats of Colombo, Galle, Matara, Trincomalee, Jaffna, and Kandy, or in any other land in any part of these settlements properly enclosed, whether

public or private, and give notice of such seizure to the nearest constable or officer of police, who shall thereupon take charge of and impound the same in the public pound, if any exist, or shall hereafter be established within the respective Gravats aforesaid, or, for want thereof in some convenient spot near the dwelling or station of such constable or officer of police, and shall forthwith give public notice of such impounding in the usual manner; and if at any time within eight days inclusive from the date of such public notice, the owner of such stray cattle, goats, sheep, or pigs, or any person on his behalf, shall appear to claim the same, he shall not be entitled to have the same restored to him but upon payment of all reasonable expenses incurred on account thereof, together with one-tenth of the value of such cattle, goats, sheep, or pigs, to be paid to the finder thereof if he shall have acted *bonâ fide*, such expenses and value, in case of dispute, to be assessed by the district court.

Cattle straying on roads or banks of canals may be seized by persons authorized.

13. And it is further enacted, that it shall and may be lawful for any local headman or person duly authorized by the Government agent, his assistant, or the surveyor general, to seize any cattle found straying, tied, or tethered (except only such cattle as may be tied and tethered during the time any cart to which they belong shall be loading or unloading), upon any public carriage road beyond the Gravets aforesaid, such road not being less than ten feet in average width, or on the borders thereof, or on the banks of any public navigable canal, and to bring the same to the nearest constable or police vidahn, or local headman, who shall forthwith report the circumstance to the district judge having local jurisdiction; and such district judge shall cause such cattle to be impounded, and public notice thereof to be given in the usual manner; and if at any time within fourteen days inclusive from the date of such public notice, the owner of such stray cattle shall appear, he shall not be entitled to have the same restored to him but upon payment of reasonable expenses, to be assessed by the district court, for keeping the same, together with a penalty at the discretion of the court not exceeding Three shillings for every head of such cattle, one moiety of such penalty to be paid to the informer, if he shall appear to have acted *bonâ fide*, and the residue to the use of our Lord the King.

Such roads and canals to be specified, and notices affixed.

14. Provided always, that the roads and canals to which the last preceding clause of this Ordinance shall be taken to apply, shall from time to time be specified by the authority of Government, and notices thereof in the English and Native language or languages of the district shall be transmitted to every Government agent and judge of every district through which the road or canal shall run. And such Government agent and district judge is hereby required to cause the same, or certified copies thereof, to be affixed on some conspicuous place at their respective offices for public information, and such Government agent or assistant Government agent shall likewise cause a copy thereof to be affixed in some conspicuous spot along the road or canal, and at every Toll-house or place of collecting toll within every such district.

Unredeemed cattle, &c., to be sold.

15. And it is further enacted, that all stray cattle, goats, sheep or pigs, seized in the act of trespass or straying within the meaning of any of the preceding clauses, and which shall not have been claimed and redeemed within fourteen days from the day of seizure inclusive, shall be sold under the direction of the district judge; and the proceeds thereof shall be applied in the first instance to defray the expense of keeping them, then the damages awarded and penalty (if any); and the balance (if any), unless claimed by the owner within six months, paid over to the Government agent for the use of Government.

Given at Colombo this Twenty-first day of December, One thousand eight hundred and thirty-five.

By His Excellency's command,

P. ANSTRUTHER,
Colonial Secretary.

ORDINANCE enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof.

Clause 20, of No. 6.

AN ORDINANCE relative to Malicious Injuries and to certain Thefts of Property.

Proviso as to trespasses in sporting, &c.

20. Provided always and it is further enacted, that nothing in this Ordinance contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, or in the pursuit of any other sport or diversion, but that every such trespass shall be punishable, if punishable at all, in the same manner as before the passing of this Ordinance.

EASTERN COLONIES.

ORDINANCE enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof.

No 13.—1869.

An ORDINANCE to prevent the Wanton Destruction of Elephants, and to restrict their Removal from the Island.

Preamble. WHEREAS it is expedient to prevent the wanton destruction of elephants, and to restrict their removal from the Island: It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

No person to catch or shoot elephants without licence. 1. No person shall catch, shoot, or otherwise destroy an elephant in any part of this Island without first obtaining a licence for that purpose as hereinafter prescribed: provided that this prohibition shall not apply to the destruction of elephants trespassing on cultivated lands.

Proviso. Government agent or assistant Government agent to issue licences. Stamp on licences. 2. It shall be lawful for the Government Agent of any Province, or the Assistant Government Agent of the district, to issue licences empowering any person or persons therein named to catch, shoot, or otherwise destroy elephants, and to define in such licences the time during which they are to be in force, and the terms and conditions subject to which any elephant may be caught, shot, or destroyed. Such licence shall be on a stamp of £1, to be supplied by the applicant.

Penalties for shooting without licence or contrary to the licence. 3. Any person catching, shooting, or otherwise destroying elephants without a licence, or after it shall cease to be in force, or contrary to any of its terms and conditions, shall be guilty of an offence, and be liable on conviction to a fine of Five pounds for each elephant so caught, shot, or destroyed, and any elephant which shall be captured without a licence shall be forfeited.

Royalty on elephants removed from the Island. 4. Elephants removed from this Island to any place beyond the seas shall be henceforward subject to the payment of such sum, not exceeding Twenty pounds, as a royalty, as the Governor shall, by proclamation, to be by him from time to time issued, appoint. Such royalty shall be collected by the officers of Customs at the various places of shipment throughout the Island.

Governor to make regulations for the conduct of the capture of elephants. 5. It shall be lawful for the Governor, with the advice of the Executive Council, to make regulations for the conduct of the capture of elephants, and all licences issued under section 2 shall be subject to such regulations, and any breach thereof shall be punishable as a breach of such licence.

6. It shall be lawful for any magistrate to direct that any sum, not exceeding one-half of the fine actually recovered and realized under the provisions of this Ordinance, shall be paid to the informer.

Passed in Council the fifteenth day of December. One thousand eight hundred and sixty-nine.

JAMES SWAN,
Clerk to the Council.

Assented to by His Excellency the Governor the seventeenth day of December, One thousand eight hundred and sixty-nine, and published by his order.

HENRY T. IRVING,
Colonial Secretary.

(Signed) HERCULES ROBINSON.

Enclosure 3 in No. 31.

Enclosure 3 in No. 32.

(No. 286.)

SIR, Camp. Cadreveli, 20th October, 1868.

My late tour in the Tamankadua and Batticaloa districts has shown me the wanton destruction of elephants now going on through the whole of this side of the Island, and the herds are now all broken up into small parties of three and four, while it is very common to find a she-elephant with a single young one by herself, a thing most unusual formerly, and at entire variance with the habits of the animal.

This is all caused by the demand which has arisen for elephants in India; and the elephant catchers of these two districts—in fact all the Moors of some five villages—desert their legitimate cultivations, and wander over the country, from Padivil Colom to Yala Ar, catching as many young elephants as they can, and for each one they catch destroying three or four old females.

Upwards of 150 have been captured and paid for by the Pattánis, or natives of India,

this year. Their price varies from £5 to £25. Government receive nothing whatever as royalty, which is, I think, very unwise, as we have an undoubted right to levy a royalty on them.

I beg to propose, therefore, that an Ordinance be passed rendering it penal to catch or shoot elephants without a licence, except when trespassing on cultivation, when the fact shall be reported to the nearest headman, and the tail sent to him to be forwarded to the Kachcheri.

The Government Agent should be empowered to grant licences to sportsmen on the payment of such a fee for the year as Government may direct. I should propose a fee of £1 for this purpose, as it is not this sort of shooting that does harm, but the constant harassing and destroying the females of the herds when they charge in defence of their young ones when first caught.

There is no necessity, as I know from experience, and the elephant catchers admit this, for firing with ball on such occasions, and I particularly desire to see this made penal.

The Government Agent should be empowered to grant a permit to catch elephants at £1 per head, and any catcher shooting an elephant and not reporting it, should pay £5; while if he reports it, he should pay £1.

All elephants caught should be produced at the Kachcheri before they can be sold, to be branded and valued, when one-fourth, deducting the £1 paid previously, should be levied as royalty, and a certificate then given allowing of exportation.

Or, which may be preferred, the Government Agent, as he sees fit, may license certain persons to catch so many elephants, and on their being produced, and sold by auction at the Kachcheri, one-fourth should be taken for the Crown, and the rest be given to the catchers.

The elephants then sold would be branded, and receive certificates.

By either of these means the Government will always have it in its power to obtain these useful animals for its public works at a reasonable cost, instead of, as now, not being able to get them at all.

It should be proclaimed that all animals now in the Island should be registered and numbered at the several Kachcheries free of charge, and that no animal will be allowed to leave the Island after the 1st of January without a certificate.

I have long been contemplating some measure of the sort, but the reckless conduct of the elephant catchers at present calls for immediate remedy.

These men at the same time kill everything they come across, buffaloes especially, and as often kill tame as wild; while by these means they are destroying the wild herds, and preventing their being made use of for keeping up the stock of good animals.

I have, &c.,

The Honourable the Colonial Secretary. (Signed) J. W. W. BIRCH.

&c. &c. &c.

No. 32.

HONG-KONG.

COPY of a DESPATCH from the ADMINISTRATOR of the GOVERNMENT to the EARL of KIMBERLEY.

(No. 90.) Government House, Hong-Kong.

6th October, 1870.

MY LORD,

I have the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 2nd of August, acquainting me that Her Majesty's Government is desirous of obtaining information as to the Laws in force in the Colonies as to Trespass, and also as to the Preservation of Game, and requesting me to furnish copies of any enactments in force in this Colony on these subjects.

In reply, I have the honour to enclose a copy of a full explanatory Report made by the Attorney-General, together with copies of all the Ordinances referred to by him, with exception of Ordinance No. 6, of 1845, of which there is no loose copy.

I have, &c.,

(Signed) H. W. WHITFIELD,

Right Hon. the Earl of Kimberley, Major-General and Lieut.-Governor.

&c. &c. &c.

EASTERN COLONIES.

Enclosures in No. 32.

Enclosures in No. 32.

Attorney-General's Office, Hong-Kong,
27th September, 1870.

SIR,

I have the honour to transmit the following report upon the Colonial Office Circular of the 2nd August, 1870, which has been referred to me, and in which Her Majesty's Government desire to be furnished with copies of any enactments of the Legislature of Hong-Kong relating to trespass, and to the preservation of game, together with any observations which may be thought necessary to render such enactments intelligible.

With regard to both these heads of inquiry, I should premise that the Common Law of England, and such part of its Statute Law as existed on the 5th day of April, 1843, except the Act, and parts of Acts, contained in the Schedule to the 24 & 25 Vict., c. 95, are in force in Hong-Kong, subject to their applicability to the local circumstances of the Colony, or of its inhabitants. [See Ordinances No. 6 of 1845, s. IV.; No. 2 of 1846, s. III; and No. 11 of 1865, s. I.]

The following are the only enactments of the Legislature of this Colony in relation to *Trespass*.

Section 12 *of Ordinance No.* 10 *of* 1844 provides that where any distress shall be made by order of a magistrate for levying any money, the party making the same shall not be deemed a trespasser on account of any defect or want of form in the proceedings, nor trespasser *ab initio* on account of any irregularity afterwards committed. But special damages, if any, may be recovered by the person aggrieved.

Section VI. of Ordinance No. 12 *of* 1856 provides (*inter alia*) that the trespassing by man or beast upon any land or tenement vested in or under the control of any Public Officer or Department, shall be deemed a nuisance, and punishable on summary conviction by a fine not exceeding $100 and not less than $1.

Section III. of Ordinance No. 11 *of* 1856 provides that in any action or prosecution for a trespass or injuries committed in respect of iron lamp posts, &c. erected under that Ordinance, the property therein shall be deemed to be vested in the Surveyor-General.

Section 29 *of Ordinance No* 4 *of* 1865 extends to this colony, *totidem verbis*, the provisions of Section 31 of the Imperial Act, 24 & 25 Vict., c. 100, as to the setting of any man trap, or other engine, with intent to destroy or inflict grievous harm upon trespassers.

There are no enactments of the Colonial Legislature for the preservation of game; and, unfortunately, there is scarcely any game at all in the Colony. Latterly the slaughter of small birds by the Portuguese youth, and other foreign residents here, attracted the attention of the Government, and led to the passing of Ordinance No. 1 of 1870, which prohibits the destruction of all wild birds, except birds of game.

A copy of the last-mentioned Ordinance can be furnished to the Secretary of State, but I apprehend that separate copies of the other Ordinances to which I have referred cannot now be obtained, but they will be found in the new edition of the Hong-Kong Ordinances, compiled in pursuance of Ordinance No. 7 of 1864.

I have, &c.,

Honourable J. Gardiner Austin,
Colonial Secretary.

(Signed) JULIAN PAUNCEFOTE,
Attorney-General.

[True copy.] (Signed) J. GARDINER AUSTIN,
Colonial Secretary.

HONG-KONG.

ANNO NONO VICTORÆ REGINIÆ.

No. 2 of 1846.

AN ORDINANCE to amend the Ordinance No. 6 of 1845, entitled "An Ordinance to repeal Ordinance No. 15 of 1844, for the establishment of a Supreme Court of Judicature at Hong-Kong, and to substitute other Provisions in lieu thereof." [*6th May*, 1846,]

Laws of England in force on the fifth day of

3. And be it further enacted and ordained, that from henceforth such of the laws of England only, and such portion of the practice of the English Courts (subject to the

exception of their applicability as contained in the said fourth section of Ordinance No. 6 of 1845), as existed when the said Colony obtained a local legislature—that is to say, on the fifth day of April, 1843—shall be of force therein.

EASTERN COLONIES.

April, 1843, to be in force in the colony when applicable.

HONGKONG.

ANNO VICESIMO OCTAVO VICTORIÆ REGINÆ.

No. 11 of 1865.

AN ORDINANCE to repeal certain Enactments which have been consolidated in several Ordinances relating to Criminal Offences. [14*th June*, 1865.]

I. Section 4 of Ordinance No. 6 of 1845, and Section 3 of Ordinance No. 2 of 1846 shall, after the coming into operation of this Ordinance, be so construed as not to include as of force in this Colony any Acts or parts of Acts of the Imperial Parliament made and passed prior to the fifth day of April, One thousand eight hundred and forty-three, and which are enumerated in the schedule annexed to the Act of the Session of the twenty-fourth and twenty-fifth years of Her present Majesty, chapter ninety-five, and which said Acts or parts of Acts are thereby repealed.

Section 4 of Ordinance No. 6 of 1845, and Section 3 of Ordinance No. 2 of 1846, how to be construed.

HONGKONG.

ANNO SEXTO ET SEPTIMO VICTORIÆ REGINÆ.

No. 10 of 1844.

AN ORDINANCE to regulate summary proceedings before Justices of the Peace, and to protect Justices in the Execution of their Office. [10*th April*, 1844.]

XII. And be it enacted, that in all cases, except where a particular form of judgment or conviction shall have been or shall be by any such Ordinance directed to be used in that behalf, a judgment or conviction in the form, or to the effect of the form (as the case shall happen to be), prescribed by the schedule to this Ordinance annexed, shall be good, valid, and effectual, to all intents and purposes whatsoever, without setting forth or stating in such conviction the name of any informer or witness, or the particular place where the offence was committed, or whether the defendant appeared, or was or was not summoned to appear, and without setting forth or stating the evidence or facts in any further or more particular manner than shall be necessary to show that the offence was one against the true intent and meaning of the law, and no conviction, warrant of committal or distress, or other proceeding whatsoever (whether under this or any other Ordinance, and whether a particular form shall have been or shall be in that behalf directed or not), shall be quashed in any case, for any mere error or mistake in any name, or date, or title, or in any matter of description only, and where any distress shall be made for levying any money, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall the party distraining be deemed a trespasser *ab initio*, on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover satisfaction for the special damage, if any, by an action on the case, and in all cases whatsoever regard shall be had alone to the substantial merits and justice of the case.

Form of conviction. Defects of form not to vitiate any proceeding.

HONGKONG.

ANNO DECIMO NONO VICTORIÆ REGINÆ.

No. 12 of 1856.

AN ORDINANCE to regulate Chinese Burials, and to prevent certain Nuisances, within the Colony of Hongkong. [12*th June*, 1856.]

VI. The offences next hereinafter specified shall be deemed to be nuisances within the meaning of all laws, at any time in force within this Colony, for the better repression of nuisances, save that the Court or Justices before whom any person shall be found guilty of any such offence, in lieu of all other punishment for the same, shall order him

Nuisances punishable at the discretion of the court.

EASTERN COLONIES.

for every such offence to pay a penalty not exceeding one hundred dollars nor less than one dollar, that is to say:

Trespass on public lands, &c.

3. The trespassing, by man or beast, upon or in any messuage, tenement, cemetery, or land being vested in or under the control or management of any public officer, or department whatsoever.

HONGKONG.

ANNO DECIMO NONO VICTORIÆ REGINÆ.

No. 11 of 1856.

AN ORDINANCE for Lighting the City of Victoria. [12*th June*, 1856.]

Laws relating to removal or felony of fixtures and chattels, extended to lamps, irons, &c.

III. The laws relating to the removing, taking, carrying away, or stealing of fixtures and chattels respectively, shall be interpreted to apply to the removing, taking, carrying away, or stealing of the said irons, posts, lamps, and oil respectively, by any persons whomsoever; and the property of and in all such articles shall be deemed to be vested in the Surveyor-General for all the purposes of any action, suit, or information brought or preferred against any person for or in respect of the same, or for or in respect of any trespass, injury, misdemeanour, or felony done or committed in respect of any of the said articles.

HONGKONG.

ANNO VICESIMO OCTAVO VICTORIÆ REGINÆ.

No. 4 of 1865.

AN ORDINANCE to consolidate and amend the Enactments in force in this Colony relating to Offences against the Person. [2*nd June*, 1865.]

Setting spring guns, &c., with intent to inflict grievous bodily harm.

29. Whosoever shall set or place, or cause to be set or placed, any spring gun, man trap, or other engine calculated to destroy human life or to inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour; and whosoever shall knowingly and wilfully permit any such spring gun, man trap, or other engine which may have been set or placed in any place then being in or afterwards coming into his possession or occupation by some other person, to continue so set or placed, shall be deemed to have set and placed such gun, trap, or engine with such intent as aforesaid: provided that nothing in this section contained shall extend to make it illegal to set or place any gun or trap such as may have been or may be usually set or placed with the intent of destroying vermin: provided also, that nothing in this section shall be deemed to make it unlawful to set or place, or cause to be set or placed, or to be continued set or placed, from sunset to sunrise, any spring gun, man trap, or other engine which shall be set or placed, or caused or continued to be set or placed, in a dwelling-house, for the protection thereof.

No. 1 of 1870.

Title. AN ORDINANCE enacted by the Governor of Hongkong, with the advice of the Legislative Council thereof, for the Preservation of Birds. [30*th March*, 1870.]

Preamble. WHEREAS the destruction of birds has of late greatly increased, and it is expedient to make provision for their preservation, and also for checking the frequent discharge of firearms in the neighbourhood of dwelling houses to the annoyance of the inhabitants: Be it enacted by the Governor of Hongkong, with the advice of the Legislative Council thereof, as follows:—

Definition of term "Bird."

I. The term "Bird" shall for the purposes of this Ordinance mean and include every description of wild bird, except the following:

1. Birds of Game within the meaning of the Imperial Act 1 & 2 William IV., c. 32.

2. Woodcocks, snipes, quails, landrails, wild ducks, teals, widgeons, sea birds, and birds of prey.

3. Such other description of bird as may be from time to time excepted by proclamation from the operation of this Ordinance as hereinafter provided,

Killing or wounding, &c., birds a misdemeanor.

II. Any person who shall kill, wound, or attempt to kill or wound, or take any bird or use any gun, net, or other instrument whatever for the purpose of killing, wounding, or taking the same, shall be guilty of a misdemeanour, and on conviction thereof before a magistrate, shall be liable for the first offence to a fine not exceeding ten dollars, and for a second or any subsequent offence to a fine not exceeding twenty-five dollars, with or without imprisonment not exceeding one month.

Persons offending may be required to tell their names and abodes.

III. Where any person shall be found offending against this Ordinance, it shall be lawful for any person to require the person so offending to give his name, surname, and place of abode; and in case the person offending shall, after being so required, refuse to give his real name and place of abode, he shall be liable, on being convicted thereof before a magistrate, to a fine not exceeding twenty-five dollars, in addition to any punishment which may be inflicted under Section II.

Burden of proof.

IV. In all proceedings before a magistrate for an offence under this Ordinance, the burden of proof as to any bird being within the exceptions contained in Section I., shall lie upon the person accused.

Power of Governor in Council.

V. It shall be lawful for the Governor in Council from time to time, by an order to be proclaimed in the *Gazette*, to except any description of bird not hereinbefore excepted, and to exempt any part of the Colony from the operation of this Ordinance, and from time to time to vary or revoke such order.

SIR RICHARD GRAVES MACDONNELL, Knight, C.B.,
Governor and Commander-in-Chief.

No. 33. No. 33.

LABUAN.

Governor POPE HENNESSY to the EARL of KIMBERLEY.

(No. 52.)

Government House, Labuan,
3rd November, 1870.

MY LORD,

1. In reply to your Lordship's Circular Despatch of the 2nd of August, 1870, I have the honour to state that there are no enactments of the Legislature of Labuan relating either to the subject of trespass or to that of the preservation of game.

2. There is no likelihood of any question arising in this Colony on the subject of the preservation of game; and I believe anything like the Game Laws of the United Kingdom would be distasteful to the inhabitants.

3. Any question of trespass would be decided, if brought before the General Court, according to the Law of England, and under the 8th clause of Ordinance No. 3 of 1851, which gives the Court "full power and authority to hear and determine in a just and "equitable manner all disputes and differences between party and party."

I have, &c.,
J. POPE HENNESSY,
Governor.

The Right Hon. the Earl of Kimberley,
&c., &c., &c.

No. 34. No. 34.

MAURITIUS.

Brigadier-General SMYTH to the EARL of KIMBERLEY.

(No. 71.)

MY LORD,

Mauritius, 19th September, 1870.

In compliance with the instructions contained in your Lordship's Circular Despatch of the 2nd August last, I have the honour to transmit copies of the laws in force in Mauritius as to trespass and the preservation of game, together with the enclosed letter from the Acting Procureur-General, giving all the explanations that are required on the subject.

I have, &c.,
C. SELBY SMYTH,
Brigadier-General.

The Right Hon. the Earl of Kimberley,
&c., &c., &c.

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Laws in force in Mauritius as to Trespass.

Code Delalen, chap. ii., sec. 4. Owners of cattle are forbidden to send them to graze in the environs of the fortifications and other military establishments, within a distance of two hundred and forty feet (forty toises): the cattle which shall be found within that line shall be seized and impounded at the expense of the owner, and this latter shall be condemned to a fine which shall not be less than a dollar, and shall not exceed five dollars, for each animal.

Sec. 4. It is forbidden under the same penalties to send them or allow them to graze on the Government reserved lands, which said reserved lands include the lands surrounding the enclosures used for the cattle of the Engineering Department, those included between the Grand River and the Moka roads, those which extend from the canal of discharge of the Fanfaron as far as the trenches at Lataniers, and, lastly, the grounds attached to the State brick-kiln.

Penal Code, Article 378. The punishment of a fine not less than four shillings and not exceeding four pounds sterling shall be awarded against:

Idem. sect. 4. Any person who shall pass through ground belonging to another person, or shall enter upon such ground contrary to the will of the owner.

Idem. article 382, sect. 2. Any person not being the owner, usufructuary, tenant, or renter of, nor having the use nor the right of passage over any land, or who being neither agent of, or employed by any of these persons, shall enter and pass over such land or any portion thereof, if the same had been prepared or planted or had been sown, or had any crop whatever growing therein.

Idem. sect. 3. Any person who shall cause or permit his herds of cattle, beasts of burden, of draft or for riding, to pass over the land of another person before the whole of the crop have been cleared away.

Ordinance No. 18 of 41, article 2. Whenever the middle of streams, rivers, and mouths of rivers shall form, according to the deeds of concession, the line of demarcation of grounds belonging to different neighbouring proprietors, the right of fishing in such part of the said streams, rivers, or mouths of rivers shall, to the exclusion of all other persons, belong jointly to such proprietors.

In consequence of the above provisions no person shall have the right of fishing upon the estate of another without his permission.

Ordinance No. 42 of 1844, article 2, sect. 3. Every person wandering abroad and lodging in any outhouse or shed, or in any deserted or unoccupied building, or in any mill, sugar or coffee works, watchhouse, trash house or other buildings, or within any cave, coffee provision, piece, pasture, or enclosure, not having any visible means of subsistence, and not giving any account of himself or herself.

Sect. 11. Every person being found in or upon any dwelling-house, warehouse, store, shop, coach-house, stable, outhouse, or lock-up place in which goods are kept, or in any enclosed yard, pen, garden, or crane, for any unlawful purpose, shall be deemed a rogue and vagabond within the true intent and meaning of this Ordinance; and it shall be lawful for any Stipendiary Magistrate to commit such offender, being thereof convicted before him on his own view, or by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses, to the house of correction there, or on the public streets and highways to be kept to hard labour for any time not exceeding twenty-eight days.

Ordinance No. 35 of 1863, chap. i. article 2. Any person whatever may draw water from any river or stream for the use of himself, his family, and any animals possessed by him. But no person shall be entitled without the authority of the Executive Council to do so by means of machinery, or by turning aside any portion of any such river or stream. Nothing herein contained shall entitle any person to enter on any private property without the occupant's consent for the purpose of drawing water.

Any person whatever may draw water from any open part of any canal for the use of himself, his family, and domestic establishment, which latter shall be held to include any animals used by such person or his family. But no person not having right to a portion of the water of a canal shall be entitled to draw water therefrom by means of any pipe, or canal, or drain, or with the aid of any machinery, or for irrigating or watering any kind of crop, or any garden or other ground, or to be used in carrying on any manufacture.

Nothing in this article contained shall authorize any person to enter on private property without the proprietor's consent for the purpose of drawing water from any canal.

Ordinance No. 8 of 1869, articles 8, 9, 18, 21, 22, 28. See these articles in the Game Law of Mauritius hereto annexed.

No. 8, of 1869.

AN ORDINANCE to Amend and Consolidate the Laws on Game.

[*4th May*, 1869.]

WHEREAS, it is expedient to amend and consolidate the laws relating to game, to game licences, and to periods for prohibiting the killing and pursuit of game:

Be it therefore enacted, by his Excellency the Governor, with the advice and consent of the Council of Government, as follows:

PART I.

Game Licences.

No person shall shoot game without a game licence.

1. It shall be unlawful for any person to shoot, or, by any other means whatsoever, to kill, destroy, or take any game, or to attempt so to do, or to go in pursuit or search of game, without having previously taken out a licence in the manner hereinafter prescribed.

Every person contravening this enactment shall incur a penalty not less than two pounds, and not more than ten pounds, and in case of any offence within twelve months after a previous conviction, such offender shall be liable to a penalty not less than ten pounds sterling and not exceeding twenty pounds.

Duty payable for a game licence.

2. A game licence shall be issued by the collector of Internal Revenues or by any officer in any district duly authorized by the said collector, to any person making application for the same upon payment of a sum of two pounds sterling as a licence duty.

If the licence is issued to a servant the duty shall be one pound sterling.

Such licences shall not be transferable: they shall, in no case, be in force for more than twelve months, and shall be renewable on the 1st of April in each year, but the persons who have already paid for a game licence during this year, and before the passing of this Ordinance, shall not be bound to renew their licences until the 1st of April of next year.

Persons residing in Mauritius for less than one month shall not be required to take out a game licence.

Forms of application and of licence.

3. The application for a game licence, and the game licence shall be in the forms in Schedules A and B, annexed to this Ordinance.

4. No game licence shall be issued to:

Persons incapable of obtaining a game licence.

1o. Minors, unless with the authorization of their parents or guardians.

2o. Interdicted persons.

4o. Persons who have not satisfied the judgments which may have been given against them under the provisions of this Ordinance.

List of licences to be published.

5. A list of all licences issued shall be published during the ensuing week in the Government 'Gazette' by the collector of Internal Revenues.

Shooting in public places.

6. It is expressly forbidden, under a penalty not less than two pounds, and not more than ten pounds, to shoot upon or across any high road, public way, street, or in any public place whatsoever.

Persons carrying guns presumed to be shooting.

7. Any unlicensed person found with a gun in his hands, on any land, or upon any high road or public way, shall, in the absence of satisfactory proof to the contrary, be presumed to be carrying such gun for the purpose of shooting and to be shooting therewith, and such person shall be liable to the penalty mentioned in Article 1.

Shooting or killing game on land of another person.

8. All persons who shall, at any time of the year, carry a gun, or shoot, or, by means of dogs, nets, gins, snares, or other engines whatsoever, take or kill, or attempt to take or kill any game upon land not owned or occupied by them, or who shall be found on such land with dogs, nets, gins, snares, or other engines whatsoever, except with the express consent of the owner or occupier of such land, shall be punished as poachers, and all those found in their company, even though they may have no dogs with them, or no guns or other engines in their hands, shall also be punished as poachers.

Every person offending against the provisions of this Article shall incur a penalty not less than five pounds, and not more than fifty pounds, and in case of any second offence, such offender shall further be liable to imprisonment for a term not less than one month and not exceeding six months, with labour.

Shooting on crown lands.

9. No person shall carry a gun, or shoot, or, by any means whatsoever, kill or take, or attempt to kill or take game on Crown lands, or shall have in his possession on such lands, nets, gins, snares, or other engines whatsoever, except with the express permission of the Governor.

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Provided that, if any such land has been leased to, or placed under the guardianship of some person, the consent of such person shall be sufficient.

Every person contravening this enactment shall incur the penalties mentioned in Article 8 of this Ordinance.

Game-keepers.

10. It shall be lawful for the Governor, at the request of any owner or occupier of land, to appoint gamekeepers to keep the game upon such land. The said gamekeepers shall be sworn before the district magistrate of the district in which they are to act, and they shall have, within the limits of the said land, the same power as forest rangers have under this Ordinance.

PART II.

Periods within which the Killing or Pursuit of Game is prohibited.

Periods within which deer, partridges, and other game cannot be killed.

11. It shall not be lawful for any person to pursue, take, kill, or destroy by any means whatsoever, deer, partridges, wild guinea fowls, quails, wild ducks, or sarcelles, within the following periods, viz. :—

1o. As to deer, from the 1st September in every year until the 15th May following;

2o. As to partridges and the birds above mentioned, from the 15th September in every year until the 15th April following.

Penalty for killing or pursuing game in prohibited times.

12. If within the aforesaid prohibited periods, any person shall, in any place, or by any means whatsoever, take, kill, destroy, or attempt to take, kill, or destroy, or shall go in pursuit of any deer, partridges, quails, or other birds as aforesaid, such person shall, for each such offence, incur a penalty not less than five pounds sterling and not more than (£10) ten pounds sterling: and every such offender shall, for any offence committed by him within twelve months after a previous conviction, be condemned to imprisonment for a period not less than five days and not more than one month, or to a fine not less than fifteen pounds sterling or more than thirty pounds sterling.

Dealers in game to be licensed.

13. It shall not be lawful at any time for any person to sell or hawk game, unless such person is duly licensed to deal in game.

Every licence to deal in game granted in the present year shall continue in force until the 14th day of May, 1870, and every such licence granted in any succeeding year shall continue in force for the period of one year next after the granting thereof.

Such annual licence shall be granted by the collector of Internal Revenues upon payment of a sum of ten shillings, and every person while so licensed to deal in game shall affix to some part of the outside of the front of his house, shop, and stall, or upon the basket in which the game is carried, and shall there keep, a board having thereon in clear and legible characters his name and surname, together with the following words, that is to say—"Licensed to deal in game."

Every person so licensed shall be bound to disclose to any police officer or constable, or forest ranger, the name of the person from whom and the place where he has procured the game sold, hawked, or offered, or exposed by him for sale.

Penalty for dealing in game without a licence.

14. Any person dealing in game without having been previously licensed so to do, or neglecting to put up the board, or refusing to make the disclosure mentioned in the preceding Article, shall be liable to the penalties mentioned in Article 1 of this Ordinance.

Penalty for selling, buying, possessing game within the prohibited periods.

15. If within the said prohibited periods, any person is found in possession of any venison, partridge, or other birds as aforesaid, or buys, sells, or exposes for sale any such game, such person shall be deemed to have committed an offence against this Ordinance, and shall, for each such offence, incur a penalty not less than five pounds sterling and not more than ten pounds sterling, together with the forfeiture of all such game.

Provided that this enactment shall not apply to deer or birds, reared in a state of domesticity or imported; but the onus of proving that such deer or birds have been reared or imported as aforesaid, shall fall upon the person found in possession thereof.

In case of any offence committed within twelve months after a previous conviction, the offender shall be condemned to imprisonment for a period not less than five days and not more than one month, or to a fine not less than fifteen pounds sterling or more than thirty pounds sterling.

Protection of other birds and animals besides deer, partridges, and quails.

16. It shall be lawful for the Governor, from time to time, and by proclamation, to prohibit absolutely the shooting, taking, or killing of any wild bird or animal, other than deer, partridges, and the other birds hereinbefore mentioned, or to fix a period in each year, during which such bird or animal may be lawfully killed, shot at, or taken.

Any person shooting, killing, or taking, even upon land owned or occupied by him, any such bird or animal, or buying, selling, or being found in possession of the same, in contravention to any such aforesaid proclamation, or within any other period than the

period appointed by the Governor, shall incur the penalties mentioned in Article 12 of this Ordinance.

The governor may extend the shooting season.

17. It shall be lawful for the Governor to extend the shooting season, from time to time, and whenever he shall think it necessary, or to permit the pursuit and killing of game, upon any particular land whenever it may seem expedient to him to give such authorization.

PART III.

Provisions to enforce this Ordinance.

By whom offenders may be taken in custody.

18. Any person found committing any offence against this Ordinance, may, without a warrant, be apprehended by the owner or occupier of any land crossed over, or trespassed upon, or by any person in the service of such owner or possessor, or by any police officer or constable, or by any forest ranger, or by any inspector of licences, unless such offender be known to the person so empowered to arrest him, or unless such offender gives satisfactory information or reference with respect to his name and place of abode.

If such offender is apprehended, he shall be taken to the nearest police station, and the officer in charge of the station, if satisfied with respect to the name and place of abode of the person arrested, shall release him provisionally.

If such person is not released, he shall, within the forty-eight hours after his arrestation, or sooner if possible, be conveyed before the magistrate of the district where the offence has taken place.

Right of entry on land.

19. When and so often as any person is found carrying a gun or shooting, or pursuing game, it shall and may be lawful for any police officer or constable, or for any forest ranger, or for any inspector of licences, upon his own view thereof, to enter upon any land, without warrant, to inquire of such person whether he has a game licence, and otherwise to enforce the provisions of this Ordinance.

It shall further be lawful for any inspector, sergeant, or corporal of police, whenever he shall have good and satisfactory reason to believe that any offence against this Ordinance is intended or is in actual perpetration, to lodge an information of the fact before a district magistrate, and to obtain a warrant to enter any land or premises to enforce the provisions of this Ordinance.

Penalties for obstruction, &c.

20. In case any person shall, at any time, by violence, intimidation, or menace, or, in any manner, obstruct, or hinder, or shall assault any person acting under the authority of this Ordinance and for the execution thereof, such person shall be liable to a fine not less than ten pounds sterling and not exceeding fifty pounds sterling, or to imprisonment not exceeding one year, without prejudice to the right of the Procureur-General to elect to prosecute the offender under any Article of Ordinance, No. 6, of 1838, commonly called the Penal Code of this Colony.

Dogs hunting on land not belonging to their master.

21. All dogs found at any time hunting over any land, without permission of the owner or occupier of such land, may be captured by the owner or occupier of such land or by his servants, or by any police officer or constable or by any forest ranger; provided that such dog shall be forthwith forwarded to the nearest police station.

Captured dogs to be sold if not claimed.

22. If a dog has been captured, under the provisions of the preceding Article, and if such dog is not claimed by its owner within three days after its capture, the inspector of police of the district, where the capture has taken place, may publish a notice in two daily newspapers containing a short description of the dog, and fixing a delay within which the dog if not claimed shall be sold.

If on the day fixed for the sale the dog is not claimed, the said Inspector shall sell the dog to the highest bidder in the court yard of the District Court, and the price of such sale, after deduction of a sum of five shillings, payable to the said inspector, and after payment of the cost of the aforesaid notice, and of the maintenance of the dog, shall be handed over to the district cashier to be paid over to the owner of the dog, on demand.

If within one month no such demand has been made the money shall accrue to the Colonial Treasury.

The cost of maintaining any dog shall not exceed sixpence per diem.

If the dog is claimed by its owner, such owner shall not be entitled to have his dog restored to him until he has paid the expenses incurred as aforesaid, and the fine of five shillings payable as aforesaid.

When more than one dog belonging to the same owner shall have been captured and sent to any police station, the fine payable to the inspector of police under this Article shall not exceed one pound sterling.

23. It shall nevertheless be lawful for the owner or occupier of any land or premises,

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or for any of his servants, although not licensed under this Ordinance, to shoot and kill any wild or stray dog, the owner of which may not be known, found by him upon such land or premises.

Destruction of dogs, deer, &c.

It shall also be lawful for such owner or occupier of land, or for any of his servants, to shoot any deer found straying on any cultivated portion of his land, provided that, whenever any deer is so killed out of season, a report shall be made to the inspector of police of the district, and the carcass of the deer sent, at the expense of the Poor Law Commission, to the nearest police station to be at the disposal of the Board of Guardians for the relief of the poor.

Any person neglecting to make such report as aforesaid to the inspector of police shall incur a penalty of three pounds sterling.

Refusal of licences to persons convicted under this ordinance.

24. It shall be lawful for the Governor, upon the report of the Inspector-General of Police, to order that no game licence shall be issued to any person convicted for a second time under this Ordinance.

Such prohibition may be for one or more years, but shall not extend to a period exceeding five years.

Civil actions not prejudiced by this ordinance.

25. No prosecution or conviction under this Ordinance, shall prejudicially affect the right of any person to enter an action before a Civil Court for the recovery of damages on account of any act punishable under the provisions of this Ordinance.

Civil responsibility of parents, masters, &c.

26. Parents, guardians, masters, and employers (*commettants*), shall be civilly responsible for the offences committed against the provisions of this Ordinance by their un married children being still minors, their pupils if residing with them, their servants or overseers (*préposés*).

Their responsibility shall be established in accordance with the provisions of Article 1384 of the Civil Code: it shall be restricted to damages and costs, and the judgment awarding such damages and costs shall not be enforced by caption of the body.

PART IV.

Legal Procedure.

Jurisdiction of district magistrates.

27. Every offence committed against the provisions of this Ordinance shall be heard and determined by the district magistrate of the district where the offence has been committed, and every fine or penalty under this Ordinance shall be sued for and recovered before any such magistrate, in the same manner as fines and penalties are recovered under Ordinance No. 35, of 1852.

Persons who may prosecute.

28. Such penalties and fines may be sued for at the instance of any of the following persons, viz.:

1o. The owner or occupier of land trespassed upon.
2o. Any agent of such owner or occupier.
3o. Any police officer or constable.
4o. Any forest ranger.
5o. Any gamekeeper.
6o. Any inspector of licences.

Forfeitures.

29. Besides the fines or penalties provided for by this Ordinance for the punishment of any offence against the provisions of Articles 8, 9, 11, and 12, the conviction of any offender shall carry with it the forfeiture of any gun, net, gin, snare, or other engine, and of any game found in his possession at the time of the offence.

Recovery of penalties.

30. Whenever upon summary conviction, any offender against the provisions of this Ordinance shall be adjudged to pay a penalty or fine, it shall be lawful for the district magistrate to adjudge that such offender shall pay the same either immediately or within such period not exceeding eight days as the said magistrate shall think fit.

In default of payment the offender shall be imprisoned for any term not exceeding the period specified in the following scale, unless the penalty shall be sooner paid.

For any penalty not exceeding one pound, the imprisonment shall not exceed seven days.

For any penalty not exceeding five pounds, the imprisonment shall not exceed fourteen days.

For any penalty not exceeding ten pounds, the imprisonment shall not exceed one calendar month.

For any penalty not exceeding twenty pounds, the imprisonment shall not exceed two months.

For any penalty not exceeding fifty pounds, the imprisonment shall not exceed six months.

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31. If several persons have been convicted of a joint offence against this Ordinance, such offenders shall be liable *in solido* for the payment of the fine, the damages or costs awarded upon such conviction. Solidarity.

32. Every prosecution, under the provisions of this Ordinance, shall be commenced within two calendar months from the time the facts, on which such prosecution is brought, shall have been discovered and known, and not thereafter. Limitation of actions.

PART V.

Interpretation of Terms, Repeal of Laws, and Promulgation of this Ordinance.

33. The word game shall mean, deer, hares, partridges, quails, wild guinea fowls, wild ducks, and sarcelles, and all other wild birds and animals, that may be included in any proclamation made by the Governor under the authority of Art. 16 of this Ordinance. Interpretation of terms.

Subject to the context and to the nature of the subject-matter, words denoting the singular number are to be understood to apply also to a plurality of persons, animals, birds, or things; and words denoting the masculine gender are to be understood to apply to persons and animals of the feminine gender.

34. Ordinance No. 4, of 1836, Ordinance No. 17, of 1842, and Ordinance No. 22, of 1867, and all laws and proclamations relating to game and to game licences, are hereby repealed. Repeal of laws.

35. This Ordinance shall come into force and shall have effect on and after the 15th day of May, A.D. 1869. Promulgation.

Passed in Council, at Port Louis, Island of Mauritius, this fourth day of May, One thousand eight hundred and sixty-nine.

THOS. ELLIOTT,
Acting Secretary to the Council of Government.

Published by order of his Excellency the Governor.

EDWARD NEWTON, Colonial Secretary.

HENRY BARKLY, Governor of Mauritius.

SCHEDULE A.

No. 1.

ORDINANCE No. 8, of 1869.—ARTICLE 3.

Declaration to obtain a Game Licence.

I,
residing at
in the District of
do hereby apply for a licence to have the privilege of shooting game, during the year ending 31st March, 186 .

Description of Applicant.	His Occupation.
Age	
Height*	
Complexion	
Colour of Hair	
Colour of Eyes	
Any distinctive marks . .	

I certify that the above declaration is true and correct.

Port Louis, this day of 186 .

Seen

† Signature or Mark of Declarant.

Chief Inspector of Licences.

* N.B.—High, low, or middle.

† The master to declare and sign for his servant.

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SCHEDULE B.

No. 2.

ORDINANCE No. 8, of 1869.—ARTICLE 3.

Game Licence.

Mr
residing at
in the District of
whose description is below, as mentioned in his Declaration, is hereby licensed to carry arms for the purpose of killing game during the year ending 31st March, 186 .

Description of Licensed Party.	His Occupation.	Signature.
Age		
Height*		
Complexion		
Colour of Hair		
Colour of Eyes		
Any distinctive marks . .		

* High, low, or middle.

Internal Revenue Office,
Port Louis, this day of 186
Registered No. Collector.

Received from Mr.
the sum of Pounds Sterling, being the duty on the above licence.

Internal Revenue Office
Port Louis, this day of 186 .
£
Cash Book No. Collector.

REPORT on Ordinance No. 8, of 1869, intituled "An Ordinance to Amend and Consolidate the Laws on Game." [*4th May*, 1869.]

The first law enacted in this Colony for the preservation of Game was Ordinance 175 (Code Delalen), of the 24th October, 1767.

The Ordinance observes, in its preamble, that the unrestricted right of pursuing and killing game had led to the almost total destruction of stags; and that the Colony was thus threatened with the loss of alimentary resources of the greatest value in times of war or famine. It prohibited absolutely the hunting of stags and wild goats in the forests and lands of private persons or of the King, and it only allowed the shooting of hares and partridges and of other small game.

On the 26th June, 1775, a second Ordinance was promulgated to enforce the strict execution of the law of 1767.

The prohibitions against shooting stags and wild goats were removed by the Decree of the 14th Vendemaire, An. 13 (6th October, 1804).

The Decree imposed a duty upon all persons who wished to shoot game upon their own lands.

In 1836, an Ordinance (No. 4, of 1836) (on Game and Game Licences) was passed, for the purpose of consolidating the various dispositions of the previous laws on Game. This Ordinance prohibited stag hunting in rutting time, and partridge and quail shooting in breeding time: It enacted that no person should be allowed the privilege of shooting unless provided with a game licence; and it made it unlawful to shoot upon the highways, or upon Crown lands, without the permission of the Governor, and upon private lands without the consent of the owner of the land.

In 1842, another Ordinance (No. 17, of 1842) was passed to alter the periods fixed in the Ordinance of 1836, for prohibiting the killing and pursuing of game.

The absence of proper provisions for the enforcement of those two Ordinances not

only favoured the depredations of poachers upon private and Crown lands, but I regret to have to add that the laws for the preservation of game were universally disregarded and that they were daily violated with impunity.

On the 22nd April, 1868, a petition, signed by the most influential owners of landed property in the Colony and by five of the inofficial members of the Council of Government, was submitted to the Governor. The petitioners observed that "the present Game "Laws were notoriously insufficient to prevent the wanton destruction of game," and they solicited the revision of the laws for the preservation of game.

The present Ordinance has for its object to amend and to consolidate the various laws enacted for the preservation of game in the Colony, and to provide proper regulations for the enforcement of the law; and I shall now briefly pass in review the provisions enacted to that effect.

PART I.

"*Game Licences.*"

This part of the Ordinance maintains the dispositions of Ordinance No. 4, of 1836, which relate to Game Licences or Certificates, and to the duty payable for each licence.

The duty is £2 for all persons except servants, servants paying only £1.

This tax will appear moderate when compared with the duties payable for game certificates in England or in France.

Article 4 enumerates the persons to whom licences cannot be issued, and applies to the Game Law the dispositions of our common law respecting the disabilities of minors, of interdicted persons, and of parties who have not satisfied the judgments by which they have been condemned to a penalty for an offence to this Ordinance.

Articles 7, 8, and 9 contain special provisions, which had been for a long time solicited from Government, and which experience had shown to be indispensable to secure private property against the depredations of poachers, and to protect the revenue against glaring violations of the law, perpetrated with impunity.

PART II.

"*Periods within which the Killing or Pursuit of Game is prohibited.*"

The periods fixed by Ordinance No. 17, of 1842, and within which it was made unlawful to kill game, have been slightly altered.

The sale of protected game, during the prohibited shooting period, continues to be forbidden.

Dealers in game have been subjected, as they are in England, to an annual licence for hawking or selling game; but instead of the duty of £2 payable under Section 19 of Act 1 & 2 William IV. c. 32, the duty under this Ordinance is only 10*s*. The Article 13, which requires that dealers in game should be licensed, further imposes upon such dealers the obligation of disclosing, when requested to do so by police officers or forest rangers, the names of the persons from whom and the place where they have procured the game offered for sale by them. This provision may at first sight appear inquisitorial, but it has been necessitated by the numerous frauds committed by receivers of stolen game, whom the law permitted with impunity to sell or hawk game obtained from notorious poachers. Article 16 provides for the protection of the birds and animals which have not been specially mentioned in the Ordinance.

Several kinds of foreign birds and animals had, on various occasions, and for ornamental or useful purposes, been introduced, at great expense, into this Colony; but as they were not protected by the law they had become the prey of the most wanton and barbarous destruction, and they had, soon after their introduction, disappeared from the Island.

Power is now given to the Governor to protect the birds and animals which exist in the Colony, or which may be introduced into it, by prohibiting absolutely their destruction, or by restricting the period in each year within which they may be killed. Article 17 gives power to the Governor to extend the shooting season whenever he thinks it necessary, and to permit, at any time, the killing of game upon particular lands.

This power had temporarily been given to the Governor by Ordinance No. 22, of 1867, during the height of the fearful epidemic of fever which was then devastating the Colony; and the landed proprietors of the Colony had promptly availed themselves of the suspension of the game laws to provide our dispensaries, hospitals, and houses of succour for the poor with an abundant and gratuitous supply of meat. This beneficial power, which in 1867, had the most happy effects, is now permanently invested in the Governor. Two other reasons were urged in Council in support of the provisions of this Article.

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Firstly.—The Colonists had been flattered with the hope of a visit from one of the sons of Her Majesty, and the members of Council who represented the landed proprietors of the Island claimed the privilege, if at any time a Prince of the Blood visited Mauritius, to hail that visit by great stag-hunts even during the prohibited season.

Secondly.—On various occasions, from want of pasturage or from the increase of stag herds upon particular estates, the stags had become so emaciated that various diseases had broken out among them; and it was justly represented that to prevent the breaking out of epidemic diseases in this most valuable species of Colonial game, power ought to be left to the Governor, to order, in any case of emergency, the diminution or destruction of stags upon any particular estate.

These reasons having been unanimously approved by the Council of Government, the Article was passed without discussion.

PART III.

"*Provisions to enforce this Ordinance.*"

The dispositions of Article 18 are analogous to the provisions of the 21st section of Art. 1 & 2 William IV. chap. 32.

Art. 19 gives to police officers, to forest rangers, and to inspectors of licences the right, whenever they see a person carrying a gun or shooting, to enter the land where such person is found in order to inquire whether he has a game certificate.

This provision has been deemed by the Legislature to be indispensable for the proper execution of the Game Laws, as, under the previous law, poachers upon private property or uncertificated persons shooting upon their own land could with impunity violate the game regulations in the very sight of police officers, those officers having no legal right of entry upon the lands where the offences were committed. Art. 20, which provides penalties in cases of obstruction to the officers entrusted with the execution of the Ordinance and Articles 21 & 22, which provide for the mode in which dogs captured upon land not belonging to their master are to be dealt with, do not require any observations, as they merely reproduce the provisions of our Common Law.

Art. 23 gives to the owner or occupier of any land the right of shooting wild or unknown dogs roaming about their premises. These provisions were indispensable in our Island, where hydrophobia is so prevalent that it has on several occasions required special legislation.

Art. 24 affords another check to the violation of the Game Laws, by giving to the Governor the right, formerly exercised with too much leniency, or rather weakness, by district Magistrates, of refusing for a time the issue of game licences to offenders convicted for a second time of any offence of the Game Laws.

PART IV.

"*Legal Procedure.*"

The jurisdiction of the district Magistrate in matters connected with the Game Laws has been maintained. Art. 28 gives to owners or occupiers of private property, to police officers, to forest rangers, and to gamekeepers and inspectors of licences to prosecute before the district Courts offences committed against the provisions of this Ordinance.

In Art. 30, scale for the enforcement of fines by imprisonment is the same which the Colonial Legislature has recently adopted with a view to establish an uniform system with respect to the term of imprisonment applicable in case of the non-payment of a fine.

PART V.

"*Interpretation of terms 'Repeal of Laws,' 'Promulgation of the Ordinance.'*"

This part of the Ordinance requires no observation; but before concluding this Report, I have, by a comparative statement of the number of game licences issued during the four years preceding the year 1869, and the number of licences taken within the first six months of the present year, to show the favourable results which this Ordinance has already obtained:

Game Certificates.

No. issued in 1865	397
„ 1866	335
„ 1867	181
„ 1868	458
During the first months of 1869, from January 1st to June 26th	820

But setting aside the fact that a legitimate increase has now accrued to the public revenue by a stricter enforcement of the law, I have to add that this Ordinance has been hailed with the utmost satisfaction by the owners of landed property in the Island, and that it has already exercised a salutary effect upon that class of idle and dangerous persons who lived by poaching.

I beg, in conclusion, respectfully to recommend this Ordinance for approval.

(Signed) JULES L. COLIN,
Procureur-General.

28th June, 1869.

The ACTING PROCUREUR-GENERAL to the COLONIAL SECRETARY.

Mauritius, Procureur-General's Chambers,
14th September, 1870.

SIR,

In compliance with the directions of his Honour the Officer administering the Government, as conveyed by your letter, No. D—193, of 6th instant, I have the honour to forward copies of the Laws of Mauritius which relate to Trespass and to the Preservation of Game.

2. These laws respecting trespass are penal laws and do not call for any explanatory observation from me: the civil remedy for trespass is by way of action in damages.

3. The law of Mauritius on the Preservation of Game is contained in one Ordinance, i.e., No. 8, of 1869: in explanation of that enactment I annex a copy of the Report which was made concerning it by the late Procureur-General at the time of its passing.

I have, &c.,
(Signed) G. B. COLIN,
Acting Procureur-General.

To the Hon. The Colonial Secretary,
&c. &c. &c.

No. 35.

STRAITS SETTLEMENTS.

COPY of a DESPATCH from Governor SIR HARRY ST. GEORGE ORD, C.B., to the EARL of KIMBERLEY.

(No. 185.) Straits Settlements, Government House, Singapore,
22nd September, 1870.

MY LORD,

I have the honour to acknowledge the receipt of your Lordship's Circular Despatch, 2nd August, 1870, requesting to be furnished with copies of any enactments in force in the Colony with reference to Trespass and to the Preservation of Game; and, in reply, I have the honour to forward the copy of a Report by the Acting Attorney-General, stating that there does not exist any law with regard to the preservation of game, and but one respecting trespass,—the Indian Act XLVIII., 1860, which awards punishment for trespassing on house or land.

I have, &c.,
ST. GEORGE ORD.

The Right Hon. the Earl of Kimberley,
&c. &c. &c., Colonial Office.

Enclosure in No. 35.

Attorney-General's Office,
20th September, 1870.

No law exists relative to the preservation of game.

The only provision made as to offences on Land or Criminal Trespass is contained in sect. 9 of Act XLVIII. of 1860 of the Government of India, viz.:

"Whoever without satisfactory excuse wilfully trespasses in or on any dwelling-house "or premises, or any ground or land attached thereto, not thereby causing any actual "damage, or on any ground belonging to Government, or appropriated to public "purposes, shall be liable to a fine not exceeding twenty rupees."

(Signed) R. C. WOODS,
Acting Attorney-General.

Certified Copy.
E. A. IRVING,
Assistant Colonial Secretary,
&c. &c. &c.

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No. 36.

No. 36.

NEW SOUTH WALES.

COPY of a DESPATCH from the EARL of BELMORE to the EARL of KIMBERLEY.

(No. 166.)

Government House, Sydney,
24th October, 1870.

MY LORD,

I have the honour to acknowledge the receipt of your Lordship's Circular Despatch, dated 2nd August, 1870, requesting me to furnish you with copies of any Enactments in force in this Colony on the subject of Trespass and of the Preservation of Game.

2. The Law Department, to which your Despatch was communicated, states that the Acts enumerated in the margin,* copies of which are herewith enclosed, contain the whole of the special legislation of the Colony upon these subjects. No other observations occur to me, further than that it is sometimes said that a uniform close season is not very well adapted to such an extended area as this Colony contains.

* 4 Wm. 4, No. 10, amended by 5 Wm. 4, No. 12.
18 Vict. No. 27; 29 Vict. No. 22, and "Impounding Act of 1865."

I have, &c.,

The Right Hon. the Earl of Kimberley, &c. &c. &c.

(Signed) BELMORE.

Enclosure in No. 36.

4 GUL. IV., No. X.

AN ACT for protecting the Crown Lands of this Colony from Encroachment, Intrusion and Trespass. [28*th August*, 1833.]

Governor to appoint Commissioners of crown lands to have same power as bailiffs.

WHEREAS it is expedient and necessary to protect the Crown lands of this Colony from encroachment, intrusion, and trespass thereon, and to prevent the unauthorized occupation thereof from being considered a giving any legal title thereto: Be it therefore enacted by his Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That from and after the passing of this Act it shall and may be lawful for the Governor of this Colony, by warrant under his hand and seal, to appoint so many fit and proper persons as he shall think fit, to be, and the said persons shall thereupon be, and be called "Commissioners of Crown Lands in the Colony of New South Wales," and the said persons, and each of them, shall continue in office as such during the pleasure of the said Governor; and the said Commissioners, or any two or more of them, shall and may, during their continuance in office as aforesaid, do and perform by and under direction of the Governor for and on behalf of His Majesty, His Heirs and Successors, in, upon, or in respect of any Crown lands in this Colony, all such lawful acts, matters, and things for preventing intrusion, encroachment, and trespass thereon, or for such other purpose as any bailiff or bailiffs, lawfully appointed, may by law do or perform in, upon, or in respect of any lands, tenements, or hereditaments of his or their employer or employers.

Commissioners authorized to make perambulations and surveys of crown lands, and to require the assistance of justices of the peace, &c.

II. And be it enacted, That it shall and may be lawful for the said Commissioners, or for any two or more of them, at any time, and from time to time, as the same shall appear to be necessary, under direction of the Governor, to make perambulations and surveys of the Crown lands, or any part thereof, in any district of this Colony, and upon such perambulations and surveys to require, by writing under their hands, the assistance of any Justice of the Peace or constable in making the same; and also to take in their aid so many persons as shall and may be necessary for the purposes of this Act.

Commissioners to erect beacons and landmarks upon crown lands, penalty for wilfully injuring, &c., any beacons or landmark.

III. And be it enacted, That it shall and may be lawful for the said Commissioners, or any two or more of them, under the direction of the Governor as aforesaid, to erect and place, or cause to be erected and placed, beacons or landmarks of such construction, form, and materials, and marked in such manner as shall be appointed by the Surveyor-General of this Colony, upon any Crown lands, or the boundaries of any Crown lands, as they shall deem needful for denoting the same, and the said beacons and landmarks

from time to time to keep up and maintain, or cause to be kept up and maintained, in proper repair; and if any person shall wilfully deface, injure, destroy, or remove any such beacon or landmark so placed or erected as aforesaid, such person (being a free person) shall forfeit and pay to His Majesty, His Heirs and Successors, for every such offence, the sum of fifty pounds, which shall and may be recovered by action of debt in the name of His Majesty's Attorney-General in any competent Court of this Colony; and if such offence shall be committed by any convict or transported felon or offender, such person shall be deemed and taken thereby to have committed a misdemeanour, and shall and may be punished for the same accordingly.

Justices of the Peace, &c., to assist Commissioners in their perambulations and surveys.

IV. And be it enacted, That every Justice of the Peace and constable shall, being thereunto required by writing under the hands of any two or more Commissioners appointed under authority of this Act, aid and assist the said Commissioners in making their perambulations and surveys; and no suit or action shall be brought or commenced against any Justice of the Peace or constable for any act, matter, or thing done by them, or any of them, upon the requisition or order of the said Commissioners, or any two or more of them, during the time that the said Commissioners, or any two or more of them, shall be actually present and ordering or permitting the same to be done; but any suit or action shall and may be brought against the said Commissioners alone for any act, matter, or thing so done by them, or by their order or authority, and in their presence as aforesaid; and service of process in any such suit or action upon either of the said Commissioners, so being present as aforesaid when the said act, matter, or thing complained of was done or performed, shall in all cases be deemed and taken to be good and sufficient service.

As to actions for anything so done by them.

Limitation of actions; and as to costs when verdict for defendant.

V. And be it enacted, That any suit or action which shall be brought against any Commissioner or Commissioners to be appointed under the authority of this Act, or against any person or persons acting under the authority or by the order of such Commissioners, or any two or more of them, for any thing done or acted by him or them under this Act, shall be commenced within six calendar months next after the fact committed (in respect of which such suit or action shall be brought or commenced), and not afterwards; and the defendant or defendants in every such suit or action shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and if such suit or action shall be brought or commenced after the time so limited for bringing the same, or contrary to the provisions of this Act, or if the matter or thing complained of shall be proved to have been done under the authority and under the execution of this Act, then, and in either of such cases, the jury shall find a verdict for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue his or her action after appearance of the defendant or defendants, or there shall be a verdict against the plaintiff or plaintiffs, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the said defendant or defendants shall have double costs of suit, and shall have the like remedy for the recovery thereof as any defendant hath for the recovery of costs in any other case at law.

As to remuneration of Commissioners, &c., and others in their aid.

VI. And be it enacted, That it shall and may be lawful for the Governor of this Colony to pay, or cause to be paid, out of the Public Treasury of this Colony, to each of the Commissioners to be appointed under and by virtue of this Act, and to the Justices of the Peace, constables, and other persons acting in aid of the said Commissioners as aforesaid, as and for a remuneration for their services and for their travelling expenses, the sums following; that is to say, to each Commissioner, or Justice of the Peace, for every day upon which he shall be actually and necessarily employed upon any perambulation or survey, a sum not exceeding twenty shillings per diem in the whole; to every constable or other person taken in aid of the said Commissioners, for every day upon which he shall be actually and necessarily employed upon any perambulation or survey, a sum not exceeding two shillings and sixpence per diem in the whole; and it shall and may be lawful for the said Governor, in like manner, to pay and defray the reasonable expenses of erecting, placing, supporting, and maintaining all necessary beacons and landmarks as aforesaid.

Costs of actions against Commissioners, &c., how to be defrayed.

VII. And be it enacted, That it shall and may be lawful for the Governor of this Colony to pay, or cause to be paid, out of the Public Treasury of this Colony, the costs and charges of any suit or action which shall or may be brought as aforesaid, by or against the said Commissioners, or any Justice of the Peace, constable, or other person acting under the authority of any of the provisions of this Act, for any matter or thing by them, or any of them, done as aforesaid: Provided always, that such suit or action shall have been brought or defended under direction of the Governor of the said Colony; and provided that such Commissioners, Justice of the Peace, constable, or other person acting under the authority of any of the provisions of this Act, shall not be proved to

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have wilfully conducted themselves or himself in any improper, vexatious, or oppressive manner.

Passed the Council, 28th August, 1833.

E. DEAS THOMSON, Clerk of the Council.

(Signed) RICHARD BOURKE, Governor.

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5 WILLIAM IV., No. XII.

AN ACT to amend an Act, intituled, "An Act for protecting the Crown Lands of this "Colony from Encroachment, Intrusion and Trespass." [*5th August*, 1834.]

Preamble.

WHEREAS it is expedient to amend a certain Act of the Governor of New South Wales, with the advice of the Legislative Council thereof, passed in the fourth year of the reign of His present Majesty, intituled, "An Act for protecting the Crown Lands of this "Colony from Encroachment, Intrusion, and Trespass:" Be it therefore enacted by his Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, That from and after the passing of this Act it shall and may be lawful for any one or more Commissioner or Commissioners appointed as in the said recited Act is mentioned, to do and perform any matter or thing, which it may be lawful for any two or more Commissioners to do and perform under the provisions of the said recited Act.

Vesting in one commissioner the same powers formerly vested in two.

Passed the Council, 5th August, 1834.

E. DEAS THOMSON, Clerk of the Council.

(Signed) RICHARD BOURKE, Governor.

ANNO DECIMO OCTAVO VICTORIÆ REGINÆ.

No. XXVII.

AN ACT for protecting Inclosed Lands from Intrusion and Trespass.

[*Assented to 29th November*, 1854.]

Preamble.

WHEREAS it is expedient to make further alterations for the protection of Inclosed Lands from Intrusion and Trespass: Be it enacted by His Excellency the Governor of New South Wales, by and with the consent of the Legislative Council thereof, as follows:

Penalty upon unlawful entry into enclosed lands.

I. Any person who shall, without lawful excuse, enter into the inclosed lands of any other person, without the consent of the owner, or occupier thereof, or the person in charge of the same, shall forfeit and pay any sum not exceeding five pounds, and the proof of such lawful excuse shall be upon the person charged with any offence against the provisions of this enactment.

Penalty upon leaving open gates and slip-panels.

II. If any person shall enter into, or upon, the inclosed lands of any other person, and shall wilfully or negligently leave open, or down, any gate, or slip-panel, such person shall forfeit and pay any sum not exceeding ten pounds.

Persons violating this Act may be apprehended.

III. Any person who may be found committing any offence against any of the provisions of this Act, and who shall refuse, when thereunto required, to give his name and place of abode, shall be liable to be apprehended by the owner, or occupier, or the person in charge of such inclosed lands, and delivered to the custody of the nearest constable or peace officer, to be taken and conveyed before a Justice of the Peace, to be dealt with according to law: And any person who, upon being so required to give his name and place of abode, shall give any false or fictitious name or place of abode shall forfeit and pay any sum not exceeding five pounds.

Goats to be destroyed.

IV. It shall be lawful for the proprietor, or occupier, or any person having the charge of any inclosed lands, to destroy any goat found trespassing thereon.

Constable to destroy goats in certain places.

V. It shall be lawful for any constable, or peace officer, to seize, or destroy, any goat found straying, or at large, in any road, street, or public place.

Interpretation clause.

VI. The words "Inclosed Lands" in this Act, shall mean any lands, either private or public, which may be inclosed, or surrounded, with any fence, wall, or other erection by which the boundaries thereof may be known or recognized; and the word "person" shall be deemed to extend to any body corporate.

Penalties to be recovered summarily.

VII. All penalties hereby made payable, or recoverable, may be recovered in a summary way before any Justice, as by law is or shall be provided.

Limitation of action.

VIII. All actions and prosecutions to be commenced against any person, for anything done in pursuance of this Act, shall be commenced within two calendar months after the fact was committed, and not otherwise, and notice in writing of such action, and of the cause thereof shall be given to the defendant one calendar month, at least, before the

commencement of the action. And in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereupon. AUSTRALIAN COLONIES. General issue.

Passed the Legislative Council, this fifteenth day of November, One thousand eight hundred and fifty-four.

WM. MACPHERSON, Clerk of the Council. CHARLES NICHOLSON, Speaker.

In the name and on the behalf of Her Majesty, I assent to this Act.

CHS. A. FITZ ROY,

Govt. House, Sydney, 29th November, 1854. Governor-General.

ANNO VICESIMO NONO VICTORIÆ REGINÆ.

No. II.

AN ACT to regulate the Impounding of Live Stock. [20*th June*, 1865.] Preamble.

WHEREAS it is expedient to make better provision for the Impounding of Live Stock: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

1. The Act nineteenth Victoria, number thirty-six, being the "Impounding Act of "1855," is hereby repealed. Repeal of existing Act.

2. For the purposes of this Act the following terms in inverted commas shall, unless the context otherwise indicate, bear the meanings set against them respectively— Interpretation.

"Cattle"—Bulls, cows, oxen, heifers, steers, and calves.

"Horses"—Horses, mares, geldings, colts and fillies, asses, mules, and foals.

"Sheep"—Rams, ewes, wethers, and lambs.

"Animal"—Cattle, horses, sheep, goats, and swine, whether one or more.

"Poundkeeper"—Any person having the authorized charge of any public pound.

"Sufficient fence"—Such a fence, or other means of enclosure, natural or artificial, as the Petty Sessions shall deem to be sufficient to prevent trespass by animals ordinarily controllable.

"Justice"—Any Justice of the Peace.

"Petty Sessions"—The Justices assembled at a Court of Petty Sessions.

"Occupant"—Any owner or occupier of land, under whatever tenure, or any superintendent, overseer, or other duly authorized person acting for and on behalf of any such occupant.

"Owner"—Any proprietor of animals, or any agent, or overseer, of any such proprietor.

"Minister"—The Minister for the time being administering this Act.

3. The Minister may, on the recommendation of the Court of Petty Sessions of any district, by notice in the *Gazette*, fix upon and determine convenient places in such districts for establishing public pounds. Pounds may be established.

4. To every such pound there shall be a poundkeeper who shall be appointed by the majority of the Justices assembled in the Court of Petty Sessions assembled for that purpose nearest to the said pound. And every poundkeeper, before acting under such appointment, shall enter into a bond to Her Majesty with sufficient sureties in such amount as may be deemed reasonable by such Justices, that he shall well and truly perform the duties of such poundkeeper, and account for and pay over all moneys received by him in such capacity as by this Act directed. Poundkeepers to be appointed and give security.

5. The Minister may, by notice in the *Gazette*, fix some one day in every week on which sales of impounded animals may take place at noon at every pound in the colony. And every such sale shall take place on such day only, unless it be Good Friday, Christmas Day, or any public holiday, and then on the next business day not being such. One day only in week to be fixed for sales.

6. Every poundkeeper shall be supplied by the Government with a copy of this Act, and also with a pound book in such form as shall be determined by the Minister, both which, and also all printed instructions, from time to time transmitted to such poundkeeper, he shall keep at his pound. And he shall enter legibly in writing in such book the particulars of all matters referred to therein, under their proper heads, at the time of such matters occurring, or being done, respectively, or as soon thereafter as possible. And the said pound book, and such instructions shall, once in every month, be produced to the Petty Sessions, and, with this Act, be open at the pound, at all reasonable times to any Justice or police officer, or to any person authorized in that behalf by the Poundkeepers to keep pound book.

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Minister, free of charge, and to any other person on payment of sixpence, and the poundkeeper shall supply extracts therefrom signed by himself at the rate of one shilling for one hundred words or less, and sixpence for all additional words not above one hundred. And every poundkeeper shall, at the time of his ceasing to hold such office, deliver up such pound book, Act, and instructions, to the Petty Sessions.

Book for particulars of stray animals.

7. Every poundkeeper shall also keep a book in which he shall, from time to time, enter the descriptions of all stray animals coming under his observation, with the names and addresses of their owners, if known to him, and such other particulars as may lead to the recovery of them by their proprietors, and such book shall, at all reasonable hours, be open to the inspection of any person on payment of a fee of one shilling.

Poundkeeper to repair.

8. Every poundkeeper shall, at his own cost, keep the pound to which he is appointed clean and in good repair, and shall supply the animals impounded therein with sufficient and wholesome food and water, having regard to the capabilities of the district and the circumstances of the season—the charges for such care and sustenance to be fixed for each pound, from time to time, by the majority of Justices assembled for that purpose in the court of Petty Sessions, and published in the *Gazette*—and the poundkeeper may send such animals out of his pound, at fit times and to fit places, for grazing or watering. Provided that every poundkeeper shall be responsible to the owner of any impounded animals for every loss or damage occasioned by any wilful act or neglect of himself or his servants.

Provide sustenance.

Pound fees.

9. Every poundkeeper may demand and retain for his own use, for all animals impounded, the following fees:—For the first or only head of goats or swine, sixpence; and for every additional head thereof, not exceeding ten impounded at the same time and by the same person, threepence; and for every additional head so impounded, one penny;—for the first or only head of cattle, sixpence; and for every additional head not exceeding ten, threepence; and for every additional head so impounded, one penny;—for the first or only horse, one shilling; and for every additional horse not exceeding ten so impounded, sixpence; and for every additional head, threepence;—and for the first or only sheep, threepence; and for every additional sheep not exceeding ten, one penny; and for every additional sheep exceeding ten, one farthing.

Poundkeeper to erect board with table of fees.

10. Every poundkeeper shall keep, on or near to some conspicuous part of the pound, a board containing, in legible white letters on a black ground, a table of all fees and charges which he is authorized to demand under this Act, and all rates of damage fixed by the first Schedule hereto. And if he fail to keep such board in proper repair, or neglect to make necessary alterations therein within a reasonable time, or allow any false statement to be thereon, he shall be liable for every day of such offending to a penalty not exceeding five pounds.

Rates of damage.

11. Any occupant impounding any animals in the public pound may charge and receive for them, respectively, to his own use, the rates of damage fixed by such first Schedule, and rates per mile for driving them, according to the scale fixed in the second Schedule hereto, as well as all tolls or ferry dues incurred in such driving.

Increasing charge for repeated trespasses.

12. In every case in which the same animal shall be found trespassing on the same land more than once, and any such trespass shall take place within twenty-one days after a preceding one, such trespass there shall be charged for the second, and every other such trespass twice the rate of damage authorized by the first schedule, together with driving fees, as by the second Schedule, as well as all tolls or ferry dues incurred in such driving.

Poundkeeper to post on gate notice of cattle in pound.

13. Within twenty-four hours after the impounding of any animals, the poundkeeper shall post a written notice on the gate, or on some other conspicuous part of the pound, setting forth a description of such animals, with their brands and marks, and such notice shall remain so posted until such animals shall have been claimed, or otherwise disposed of according to this Act. And every poundkeeper who shall neglect to post such notice, or keep the same so posted, shall for every day of such neglect be liable to a penalty not exceeding forty shillings.

Notice of impounding to be sent to owners.

14. When any cattle, horses, or sheep, impounded in a public pound shall not be immediately claimed by the owner, or some one on his behalf, the poundkeeper shall within twenty-four hours thereafter send a notice to the owner, if known, and residing within ten miles of the pound, and if residing at a greater distance, then by a registered letter through the general post, such notice to contain a description of such animals, with their brands and marks; the place from which they are impounded, and by whom; the date of their impounding, a statement of the time and place of their intended sale, if not duly released, and the sum which shall, at the date of such notice, be lawfully chargeable on the same. Provided, that every owner residing within ten miles of a pound may instruct the poundkeeper in writing by which of such modes such notice shall be sent, and the poundkeeper shall act accordingly. Provided also, that when the pound-

keeper knows the owner of any impounded goats or swine residing within three miles of the pound, he shall forthwith send him notice of the impounding.

Notice to persons unknown.

15. If the owner of any animals be not known, the poundkeeper shall, within twenty-four hours after the impounding, post a like notice at the nearest Court of Petty Sessions, if within twenty-five miles of the place of impounding, and if not, then with reasonable speed, and shall with all possible despatch, insert the same in the *Gazette* and a local newspaper.

Fees for notices of impounding.

16. Every poundkeeper shall demand and receive for every notice duly sent by post one shilling, and if sent otherwise, at the rate of sixpence per mile of such distance travelled in proceeding to the residence of such owner, with the actual costs of inserting any notice in the *Gazett*, and local newspaper. Provided, that one notice only shall be charged for any number of animals belonging to the same owner, and impounded at the same time. Provided also, that every poundkeeper may detain all animals impounded until all fees and charges authorized by this Act shall be paid, or tendered, or until their sale.

Damages and penalty for injury by neglect of poundkeeper.

17. Every poundkeeper who shall take or demand any sum for anything done by him under this Act otherwise than is hereby authorized, or shall fail to pay to the occupant on demand any damages received by him from the owner of impounded animals, or shall fail duly to provide sustenance to any such animals, or shall work any cattle or horses impounded, or shall, as such poundkeeper, contrary to this Act do, or neglect anything whereby damage is incurred by the Crown, or by any person, may be ordered by any competent Court to make compensation for such damage, and shall also be liable to a penalty not exceeding ten pounds.

Unbranded cattle to be sold outright.

18. The poundkeeper, notwithstanding anything in this Act contained, may, without other preliminary than an order obtained from a Justice, sell at the next appointed day of sale any unbranded cattle or horses, above the age of twelve months, which have been impounded, and shall pay over two-thirds of the proceeds of their sale to the occupant so impounding.

Animals may be sold on authority of owner.

19. Any poundkeeper may, under the written authority of any owner of impounded animals, sell the same at the then next appointed day of sale.

Mode of sale.

20. All sales of impounded animals under this Act shall be held at noon, by auction, at the public pound, by the poundkeeper, who may so sell without an auctioneer's licence, and no auction duty shall be paid; and before every such sale a sufficient hand-bell shall be rung, for fifteen minutes at the least. Provided, that not more than ten sheep, or goats, or five swine shall be put up in one lot, nor more than one horse, or one head of cattle, unless in the case of a cow with her calf, or a mare with her foal, such calf or foal being under six months old; and the poundkeeper, or his surety, or any Justice ordering the sale shall, if he purchase any animal sold, be liable to a penalty not exceeding twenty pounds.

Application of proceeds of sale and account.

21. Every poundkeeper shall apply the proceeds of all sales of impounded animals in payment first of the pound fees, of the charges for sending notices, and for advertising, and for sustenance, all which he may keep to his own use. And he shall, within ten days after the end of every month, furnish to the Clerk of Petty Sessions a transcript from the pound book for the previous month, and shall at the same time pay to such clerk the remainder of such proceeds and other charges authorized by this Act, excepting trespass damages lawfully due to the person impounding, if claimed previously to making any monthly payment. And such Clerk, on receipt of such transcript and moneys, shall compare and verify the same, and cause any error or omission therein to be rectified by such poundkeeper; and, on being satisfied of their accuracy, shall forthwith forward the same, with a certificate of such accuracy, to the Colonial Treasurer, together with such moneys, and also all other moneys then in his hands, arising from penalties under this Act, and shall affix a copy of such transcript on some conspicuous part of the Court House for at least one month for general information.

Animals trespassing to be impounded in nearest pound.

22. Any occupant upon whose land any animals shall trespass may drive, or otherwise take, or send, the same to the public pound nearest, by a practicable road or highway, to the land where the same were trespassing, or if such land be equidistant, or nearly so, from two pounds, then to either thereof, and may on any business day between sunrise and sunset deliver them to the poundkeeper to be impounded. Provided, that should there be no poundkeeper at the nearest pound, then at the nearest pound having a poundkeeper.

23. Any occupant upon whose land any animals are found trespassing may, if he know their owner, temporarily impound the same in any convenient place on his own premises for a period not exceeding four days. Provided, that he shall within twenty-four hours give like notice to such owner as hereinbefore enacted to be given by the

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poundkeeper in the case of animals not immediately claimed, and shall feed and maintain such animals while so impounded, and may at the expiration of such time, if not sooner duly released, deliver them to the poundkeeper to be impounded in the nearest public pound. Provided also, that he may make a charge for such feeding and maintaining them, and for sending notice, not exceeding such as might by law be made by the nearest poundkeeper, but shall not be entitled to any compensation for damage except for such as was done before the temporary impounding. Provided always, that any occupant contemplating impounding may detain animals on his own premises for twenty-four hours prior thereto.

Animals trespassing may be taken home and damage recovered.

24. Any occupant may send any animals found trespassing on his land to any convenient place near the residence of the owner, and at the same time may demand payment of the damage done, according to the rate fixed by the first Schedule of this Act, together with the charges for driving, as fixed by the second Schedule of this Act, and thereupon such owner shall pay the same as satisfaction of such trespass, or in default thereof, the occupant may recover the same as a debt in the nearest competent Court, with reasonable costs of suit.

Occupant may detain animals and recover damages after notice.

25. Any occupant may detain any animals trespassing on his land, and give notice to the owner thereof of such detention, stating where they are, and requiring him to remove them, and may demand damages according to the rate in the first Schedule, and costs of sending such notice; and if not released within twenty-four hours after such notice, he may turn at large such animals, and may recover in a competent Court such damages and charges for notice as are hereinbefore provided to be paid to a poundkeeper for similar service.

Lodging animals for safe custody.

26. Any person duly authorized by the Minister, by any magistrate, or by any police officer in that behalf, may lodge any animals lawfully in possession or custody of such person in any public pound for safe custody, and may remove or authorize the removal of the same at his discretion. And in every such case the only charge made by the poundkeeper shall be the cost of sustaining such animals, according to the scale for sustenance as aforesaid.

Goats or swine trespassing may be destroyed.

27. The occupant of any lands enclosed by a fence sufficient for cattle and horses ordinarily controllable, may destroy any goats or swine found trespassing thereon.

Unbranded cattle trespassing may be destroyed.

28. Any occupant finding any unbranded cattle or horses above the age of two years trespassing on his land, may destroy the same.

Proceedings as to unclaimed animals prior to sale.

29. Where any cattle, horses, or sheep, impounded in a public pound shall not be duly released withiu four days after notice duly served on the known owner thereof—or, in case the owner is not known, within fourteen days after such notice shall have been duly advertised, such periods respectively being reckoned exclusive of the day of such service, or of the first advertisement thereof—any Justice, upon being satisfied that the poundkeeper has complied with the provisions of this Act, may by order under his hand authorize the sale of such cattle, horses, or sheep, and such sale may take place on a sale day to be advertised. And any goats or swine impounded may be sold on any business day, of which notice shall have been posted on the pound, not being less than three days after being impounded.

Animals half mile from road may be impounded.

30. Occupants of unenclosed Crown lands through which any public road or thoroughfare may pass, may not impound any cattle, horses, or sheep, travelling along or through any such road or thoroughfare, unless they be at the time of seizure at a greater distance from the centre thereof than half a mile. Provided, however, that unless prevented by rain or flood, such horses or cattle shall be moved on or along such road or thoroughfare at least ten miles, and such sheep at least six miles, in one direction within every successive period of twenty-four hours.

Owners of entire horses and bulls to pay £5 damages.

31. The owner of any entire horse, or bull, above the age of one year which may be impounded or detained under the provisions of this Act, shall be liable to pay by way of damages for every such horse, or bull, any sum not exceeding five pounds to the party impounding the same, besides all the legally authorized poundage fees, and if the owner shall not release any such animal, and it shall not realize at the poundkeeper's sale sufficient to pay the said penalty, besides the poundage fees, such owner shall pay the balance to such impounding party, to be recovered before any two Justices in Petty Sessions assembled.

Animals not to be driven away without notice to occupant.

32. Every person who shall drive, or attempt to drive, any animals, being his own, or belonging to any person duly authorizing him, from the land, and out of the herds or flocks of any occupant, or without first giving him two days' notice, if required, of his intention so to do, or who, having given such notice, shall proceed to carry it into effect without calling upon the occupant to enable him, if he pleases, to accompany him, or send a servant to do so, shall be liable to a penalty not exceeding five pounds, and

every person who shall so drive, or attempt to drive, any animals not being his own, or under authority as aforesaid, shall be liable to a penalty not exceeding ten pounds. Provided that nothing herein shall affect any criminal proceeding for such driving, if applicable thereto. Provided nevertheless, that no person having animals trespassing shall be empowered to demand to exercise such right more than once in the same month.

Fine not to exceed ten pounds.

33. Every person who shall rescue, or incite or assist any other person in rescuing, any animals lawfully impounded, or seized for the purpose of being impounded, shall be liable in any competent Court to all costs and damages lawfully chargeable thereupon, and also to a penalty not exceeding twenty pounds.

Penalty for rescue.

34. Every person who shall wilfully let in, or knowingly suffer to enter, upon any cultivated land of any occupant any animals without due authority, shall be deemed guilty of a wilful trespass, and shall be liable for every such offence to a penalty not exceeding twenty pounds. Provided, that no conviction of such offence shall affect any civil remedy against such offender.

Wilful trespass.

35. In every case in which more occupants than one holding lands enclosed by one common outward sufficient fence, such lands shall, for the purposes of the first Schedule hereto, be deemed as against all persons outside such general fence to be sufficiently fenced, but as against each other in cases where no sufficient fence stands between them, shall be deemed to be unenclosed lands.

Definition of fencing adjoining farms.

36. Whenever this Act contains a direction to insert any notice in a local newspaper, such insertion may be dispensed with, unless it can be made at a cost not exceeding the charge authorized for advertising in the *Gazette*.

Advertising.

37. Nothing herein shall interfere with the Common Law right of proceeding for damages. Provided, that if the plaintiff in any such proceeding does not recover more than damages, according to this Act, he shall not be entitled to costs from the defendant.

Special damages.

38. The Colonial Treasurer shall keep a separate account of all moneys accruing under this Act, and in case no claim to the same shall be duly made within two years next after the said money shall have been so paid into the hands of such person, it shall be lawful for the Governor, by warrant under his hand, to direct the same to be paid to the treasurer, or other authorized officer of any benevolent society or hospital established, or to be established in any district of the Colony, for the relief of such poor persons as through age, sickness, accident, or infirmity, are unable to support themselves. Provided, that in any district in which there is no benevolent society, or hospital, the same shall be paid towards the support of the nearest benevolent society, or hospital.

Application of moneys by Colonial Treasurer.

39. Every person who shall wilfully commit any offence against this Act, or any regulations thereunder not herein expressly provided for, shall be liable to a penalty not exceeding five pounds, which may be recovered before any two Justices.

General penalties.

40. This act shall commence and take effect on and after the first day of July next, and shall be styled, and may be cited as the "Impounding Act of 1865."

Commencement and short title.

FIRST SCHEDULE.

RATES OF DAMAGE TO BE CHARGED FOR TRESPASS.

Description of animals trespassing.	In any paddock of grass enclosed by a sufficient fence.		In any garden uncut meadow or growing crop of any kind enclosed by a sufficient fence.	
	s.	*d.*	*s.*	*d.*
For every horse mare gelding colt filly ass mule bull cow ox heifer steer calf	1	0	4	0
For every ram ewe sheep or lamb	0	1	0	4
For every goat	2	0	6	0
For every pig				

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SECOND SCHEDULE.

RATES OF MILEAGE FOR DRIVING OR TAKING ANIMALS TO POUND.

Description of animals trespassing.	Per mile.
Every horse mare gelding bull cow ox heifer steer calf	For the first threepence and for every other trespassing and impounded at the same time one halfpenny.
Every one hundred rams ewes sheep or lambs or under that number . . .	Sixpence for the first and one penny for every hundred or portion of a hundred above that number.
Every goat	One halfpenny.
Every pig	One shilling.

NEW SOUTH WALES.

ANNO VICESIMO NONO VICTORIÆ REGINÆ.

No. XXII.

AN ACT to provide for the Preservation of Imported Game, and during the breeding season of Native Game. [*Assented to 7th April*, 1866.]

Preamble. WHEREAS certain persons have imported and may import from parts beyond the seas at considerable expense for the benefit of the Colony game not previously existing therein, and it is expedient that encouragement should be given to such importations of game by protecting it and its progeny, as also that native game should during the breeding season have a similar protection: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Interpretation terms. 1. For the purposes of this Act the term "game" shall mean and include all birds and other animals mentioned in the first Schedule to this Act, and the terms "native game" shall mean and include all birds and other animals mentioned in the second Schedule to this Act.

Commencement of Act. 2. This Act shall come into operation and be in force as regards birds and other animals named in the first section of this Act from the date of its passing, and shall continue and be in force for the period of five years, and for a further like term during the period of the year mentioned in the first Schedule from that date, and as regards the birds and animals mentioned in the second Schedule to this Act for the space of ten years.

Period of prohibition to be named in Schedule two. 3. The period of the year during which this Act shall be in operation as regards birds and other animals mentioned in the second Schedule to this Act shall be the periods and times mentioned in such Schedule.

Penalty on killing or destroying imported game. 4. If any person shall wilfully capture, kill, or destroy at any time any game, or shall use any instrument whatever, net, or any other means for the purpose of capturing, killing, or destroying any game, such person shall upon conviction forfeit and pay a penalty not exceeding the sum of two pounds in addition to the value of each bird or other animal so destroyed, which value shall be the sum set opposite the name of such bird or animal in the first Schedule to this Act, which value shall be adjudged to the owner if claimed by him.

Penalty on killing or destroying native game out of season. 5. If any person shall wilfully kill or destroy any native game within the period mentioned in the second Schedule to this Act as the period of prohibition in regard to any bird or other animal being native game, or shall use any instrument whatever, net, or any other means within the period aforesaid for the purpose of killing or destroying any native game, such person shall upon conviction forfeit and pay any sum not exceeding the sum of two pounds.

6. If any person shall buy, sell, or knowingly have in his possession, house, or control

any game at any time or any native game within the period referring to such native game respectively in the second Schedule to this Act, every person so offending shall forfeit and pay a penalty not exceeding the sum of five pounds for every head of game in addition to the value of any such game, such value to be assessed by the Justice or Justices hearing the case for every head of native game so found in his house, possession, or control.

Penalty on having in possession game at any time and native game during period of prohibition.

7. If any person shall wilfully take out of the nest or destroy in the nest the eggs of any bird of game or native game, or shall knowingly have in his house or possession any such eggs, every such person shall forfeit and pay a penalty not exceeding the sum of ten shillings for each egg so destroyed or found in his possession or control.

Penalty on taking or destroying eggs.

8. Nothing in this Act shall extend or be construed to extend to any person being the owner of any game or native game having in his possession any such game or native game in confinement or in a domesticated state, provided such game shall not have been found wild or such native game shall not have been caught or taken within a period prohibited by the second Schedule to this Act nor to the owner of any eggs taken from the mew or breeding-place or to the possession of such eggs.

Act not to extend to private persons.

9. If any person shall be found offending against the provisions of this Act and shall not give his name and address, and shall not deliver up any game, native game or any instrument, net or other means used to kill or destroy any game or native game, to any person who may demand the same, it shall be lawful for such person with any assistance he may require and for any constable to take such person into custody and take him before the nearest Justice of the Peace, to be dealt with according to law, and any person who shall assault or resist any such person so demanding such game, native game, instrument, net or other means of destruction shall forfeit and pay a penalty not exceeding five pounds, besides any other penalty he may have incurred under this Act.

Persons offending against this Act must give name and address, and deliver up game, guns, &c., otherwise may be apprehended.

10. All offences under this Act may be heard and determined in a summary way before any Justice of the Peace, and if any person shall feel himself aggrieved at any decision given under this Act he may appeal to the next General Sessions holden nearest to the place where such decision shall take place.

This Act to be administered by summary jurisdiction and appeal allowed.

11. One half of all penalties recovered under this Act shall go to and for the sole use of any person who may sue for the same.

Disposal of penalties.

12. Any Justice hearing any complaint under this Act may dismiss the same with such costs as to such Justice may seem fit, not exceeding five pounds, and a certificate of such dismissal shall be a bar to any other proceedings for the same act in any court of law or equity.

Justices may dismiss complaints with costs.

13. This Act shall not extend or apply or be construed to extend or apply to any aboriginal native of Australia, unless employed by any other person, or as regards animals mentioned in the second Schedule to any collector of specimens of natural history for any public museum in the colony and duly authorized in that behalf.

Act not to extend to aboriginals.

SCHEDULES.

THE FIRST SCHEDULE.

	£		£
Pheasants	5	Deer	15
Partridges	5	Swans.	5
Grouse	5	Antelope	15
Hares	5		

All birds not indigenous to Australia and their produce £1.

From the 1st day of August to the 31st day of December in each year.

THE SECOND SCHEDULE.

Wild ducks of any species.
Teal.
Emu.
Native Companions.
Wild Turkey or Bustard.
Black Swans.
Wild Geese.
Bronze-winged and other wild Pigeons.
Mallee Hen.
Quail.
Land Rail.
Curlew.
Tellegalla or Brush Turkey.
Plover of any species.
Great Kingfisher, commonly known as the Laughing Jackass.

From the 1st August to 31st December.

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No. 37.

No. 37.

VICTORIA.

[Not received.]

No. 38.

No. 38.

QUEENSLAND.

Governor BLACKALL to the EARL of KIMBERLEY.

(No. 93.) Government House, Brisbane,
MY LORD, 25th November, 1870.

With reference to your Lordship's Circular Despatch of 2nd August last, I have the honour to forward to you copy of a letter from the Under Colonial Secretary, dated 22nd instant, enclosing copies of the enactments in force in the Colony of Queensland relating to trespass and the preservation of game, together with a communication from the Attorney-General in reference thereto.

I have, &c.,
(Signed) SAML. W. JAMES BLACKALL,
Governor.

The Right Honourable Earl Kimberley.
&c. &c. &c.

Enclosure 1 in No. 38.

MEMORANDUM upon Despatch from Secretary of State for the Colonies to his Excellency the Governor of Queensland, dated 2nd August, 1870, requesting information as to the laws in this Colony as to Trespass and the Preservation of Game.

The only Act in force in Queensland relating to the preservation of game of special application to this colony is "The Imported Game Act of 1863," of which I enclose a copy. The Act was passed with a view of strengthening the hands of the Acclimatisation Society, and of protecting foreign animals and birds when first turned loose from breeding enclosures, hence its severely penal character.

The nine sections of the Imperial Act 24 & 25 Victoria, chap. 96, viz., 12 to 17, and 24th, 25th, and 26th relating to the stealing of deer, and of hares or rabbits in warrens, and of fish or oysters from private fisheries, are in force in this colony, inasmuch as the corresponding sections of the Queensland Larceny Act of 1865 are drawn in precisely similar terms.

The special Acts in force as to trespass are the Acts 18 Vict., No. 27: an Act for protecting inclosed lands from intrusion and trespass of which I enclose a written copy, for being an Act of the New South Wales Legislature, passed before the separation of the colonies, a printed copy is not to be had; and the "Impounding Act of 1863," of which I also enclose a copy, but without any special observation, as the provisions of these Acts indicate the purposes for which they were passed.

I also enclose a written copy of the Trespass sections, 71 and 72 of the "Pastoral Leases Act of 1869," for the removal of persons in the unauthorized occupation of Crown lands or pastoral runs. These are the only enactments within my knowledge that bear upon remedies for trespass.

(Signed) JOHN BRAMSTON,
Attorney-General.

16th November, 1870.

Enclosure 2 in No. 38.

QUEENSLAND.

ANNO VICESIMO SEPTIMO VICTORIÆ REGINÆ.

No. 6.

AN ACT to Provide for the Protection of Imported Game.

[*Assented to 3rd September*, 1863.]

Preamble.

WHEREAS certain persons have imported and may import from parts beyond the seas at considerable expense for the benefit of the colony game not previously existing therein and it is expedient that encouragement should be given to such importations of game by protecting it and its progeny: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows—

Interpretation of terms. Governor may add birds and other animals to be protected.

1. For the purposes of this Act the term "game" shall mean and include all birds and other animals mentioned in the schedule to this Act. Provided that it shall be lawful for the Governor in Council at any time after the passing of this Act by proclamation to name any other bird or animal not indigenous to Queensland which shall be included in such schedule and after the publication of any such proclamation in the *Government Gazette* and the expiration of the period mentioned in such proclamation for the time of its coming into operation the birds or other animals so named shall be deemed and considered as being included in such schedule as fully as if they had been included therein at the time of the passing of this Act.

Penalty on killing or destroying imported game.

2. If any person shall wilfully kill or destroy at any time any game or shall use any gun net snare instrument or any other means whatever for the purpose of killing or destroying any game such person shall upon conviction forfeit and pay a penalty not exceeding the sum of two pounds in addition to the value of each bird or other animal so destroyed which value shall be the sum set opposite the name of such bird or animal in the schedule to this Act which value shall be adjudged to the owner if claimed by him.

Penalty on having in possession game at any time.

3. If any person shall buy sell or knowingly have in his possession house or control any game at any time every person so offending shall forfeit and pay a penalty not exceeding the sum of five pounds for every head of game in addition to the value of any such game such value to be assessed by the justice or justices hearing the case and at a sum not exceeding the sum set against the particular description of game in respect of which the offender shall have been prosecuted in the schedule to this Act or in any proclamation issued under the first section thereof.

Penalty on taking or destroying eggs.

4. If any person shall wilfully take out of the nest or destroy in the nest the eggs of any bird of game or shall knowingly have in his house or possession any eggs so taken every such person shall forfeit and pay a penalty not exceeding the sum of ten shillings for each egg so destroyed or found in his possession or control.

Act not to extend to private persons.

5. Nothing in this Act shall extend or be construed to extend to any person being the owner of any game having in his possession any such game in confinement or in a domesticated state or buying or selling the same Provided such game shall not have been found wild nor to the owner of any eggs taken from the mew or breeding place or to the possession of such eggs.

Persons offending against this Act must give name and address, and deliver up game, guns, &c., otherwise may be apprehended.

6. If any person shall be found offending against the provisions of this Act and shall not give his name and address and shall not deliver up any game or any instrument net or other means used to kill or destroy any game to any person who may demand the same it shall be lawful for such person with any assistance he may require and for any constable to take such person into custody and take him before the nearest Justice of the Peace to be dealt with according to law and any person who shall assault or resist any such person so demanding such game instrument net or other means of destruction shall forfeit and pay a penalty not exceeding five pounds besides any other penalty he may have incurred under this Act

This Act to be administered by summary jurisdiction, and appeal allowed.

7. All offences under this Act may be heard and determined in a summary way before any two Justices of the Peace and if any person shall feel himself aggrieved at any decision given under this Act he may appeal to the next general or quarter sessions holden nearest to the place where such decision shall take place.

Disposal of penalties.

8. One half of all penalties recovered under this Act shall go to and for the sole use of any person who may sue for the same.

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9. Any justices hearing any complaint under this Act may dismiss the same with such costs as to such justices may seem fit not exceeding five pounds and a certificate of such dismissal shall be a bar to any other proceedings for the same act in any court of law or equity.

Justices may dismiss complaints with costs.

10. This Act shall be styled and may be cited as the "Imported Game Act of 1863."

SCHEDULE.

Pheasants £5	Deer £15	All other animals and birds not indigenous to Australia and their produce £1.
Partridges £5	Swans £5	
Grouse £5	Antelope £15	
Hares £5		

INCLOSED LANDS (PROTECTION) 18 VICTORIA, No. 27.

AN ACT for protecting inclosed Lands from Intrusion and Trespass.

Preamble.

WHEREAS it is expedient to make further alterations for the protection of inclosed lands from intrusion and trespass: Be it enacted by his Excellency the Governor of New South Wales by and with the consent of the Legislative Council thereof as follows:

Penalty upon unlawful entry into enclosed lands.

1. Any person who shall without lawful excuse enter into the inclosed lands of any other person without the consent of the owner or occupier thereof or the person in charge of the same shall forfeit and pay any sum not exceeding five pounds and the proof of such lawful excuse shall be upon the person charged with any offence against the provisions of this enactment.

Penalty upon leaving open gates and slip-panels.

2. If any person shall enter into or upon the inclosed lands of any other person and shall wilfully or negligently leave open or down any gate or slip-panel such person shall forfeit and pay any sum not exceeding ten pounds.

Persons violating this Act may be apprehended.

3. Any person who may be found committing any offence against any of the provisions of this Act and who shall refuse when thereunto required to give his name and place of abode shall be liable to be apprehended by the owner or occupier or the person in charge of such inclosed lands and delivered to the custody of the nearest constable or peace officer to be taken and conveyed before a Justice of the Peace to be dealt with according to law and any person who upon being so required to give his name and place of abode shall give any false or fictitious name or place of abode shall forfeit and pay any sum not exceeding five pounds.

Goats to be destroyed.

4. It shall be lawful for the proprietor or occupier or any person having the charge of any inclosed lands to destroy any goat found trespassing thereon.

Constable to destroy goats in certain places.

5. It shall be lawful for any constable or peace officer to seize or destroy any goat found straying or at large in any road street or public place.

Interpretation clause.

6. The words "inclosed lands" in this Act shall mean any lands either private or public which may be inclosed or surrounded with any fence wall or other erection by which the boundaries thereof may be known or recognised and the word "person" shall be deemed to extend to any body corporate.

Penalties to be recovered summarily.

7. All penalties hereby made payable or recoverable may be recovered in a summary way before any justice as by law is or shall be provided.

Limitation of action.

8. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within two calendar months after the fact was committed and not otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action.

General issue.

And in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon.

SECTIONS 71 & 72 OF THE PASTORAL LEASES ACT OF 1869.

Removal of trespassers.

71. On information in writing preferred by any Commissioner of Crown lands or other person duly authorized in that behalf to any Justice of the Peace setting forth that any person is in the unlawful occupation of any Crown lands or land reserved or dedicated for any public purpose such Justice shall issue his summons for the appearance before any two Justices of the Peace at a place and time therein specified of the persons so informed against and at such time and place such Justices on the appearance of such person and on due proof of the service of such summons on him or at his usual or last

place of abode or business shall hear and inquire into the subject matter of such information and on being satisfied of the truth thereof either by the admission of the person informed against or on other evidence such Justices shall issue their warrant addressed to the sheriff or deputy sheriff or Commissioner of Crown lands or to any chief or district constable requiring him forthwith to dispossess and remove such person from such land and to take possession of the same on behalf of Her Majesty and the person to whom such warrant is addressed shall forthwith carry the same into execution provided that the lessee or manager of a run may in like manner lay an information against any person who shall be in unlawful occupation of any part of the land included in his licence lease or promise of lease.

Penalties for trespassing.

72. Any person unless lawfully claiming under any subsisting lease or licence or otherwise under this Act who shall be found occupying any Crown land or land granted reserved or dedicated for public purposes either by residing or by erecting any hut or building thereon or by clearing digging up enclosing or cultivating any part thereof or cutting timber otherwise than firewood not for sale thereon shall be liable on conviction to a penalty not exceeding five pounds for the first offence and not exceeding ten pounds for the second offence and not exceeding twenty pounds for the third or any subsequent offence provided that no information shall be laid for any second or subsequent offence until thirty clear days shall have elapsed from the date of the previous conviction.

QUEENSLAND.

ANNO VICESIMO SEPTIMO VICTORIÆ REGINÆ.

No. XXII.

AN ACT to Regulate the Impounding of Cattle.

[*Assented to* 21*st September*, 1863.]

Preamble.

WHEREAS it is expedient to amend the laws relating to the impounding of cattle and to make better provision in that behalf Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows—

Repeal of existing Act.

1. The Act nineteenth Victoria number thirty-six being the "Impounding Act of 1825" is hereby repealed.

Interpretation.

2. For the purposes of this Act the following terms in inverted commas shall unless the context otherwise indicate bear the meanings set against them respectively—

"Cattle"—Bulls cows oxen heifers steers and calves

"Horses"—Horses mares geldings colts and fillies asses and mules

"Sheep"—Rams ewes wethers and lambs

"Animals"—Cattle horses sheep goats and swine

"Poundkeeper"—Any person having the authorized charge of any public pound

"Sufficient fence"—Such a dividing fence or other boundary line natural or artificial between adjoining lands as the petty sessions shall deem to be sufficient to prevent trespass by animals ordinarily controllable

"Justice"—Any Justice of the Peace

"Petty Sessions"—The Court of Petty Sessions of the district in which any pound is situate

"Proprietor"—Any holder or occupier of land under whatever tenure or any superintendent overseer or other duly authorized person acting for and on behalf of any such holder or occupier

"Owner"—Any person owning animals or any agent or overseer of any such owner.

Governor to establish pounds and may advance money for them.

3. The Governor with the advice of the Executive Council may by notice in the *Government Gazette* appoint convenient places on any Crown land for establishing public pounds and may issue by warrant any sum not exceeding fifty pounds for substantially erecting any such pound or where a pound is deemed necessary and there are no Crown lands convenient for the purpose may advance a sum not exceeding twenty pounds towards substantially erecting a pound on private land such advance to be repaid by the owner of such land and in the meantime to be a primary charge on such private land And in the former case the poundkeeper shall on demand deliver up the pound in good repair to any newly appointed poundkeeper or may on application be ejected therefrom by order of petty sessions Provided that the Governor with the like advice may order

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any pound erected at public cost to be abandoned and may thereupon direct the removal of the fencing and other materials thereof although on private land or may in the latter case sell such fencing and materials to the owner.

Pound how to be erected.

4. Every pound to be erected as aforesaid shall be properly fenced and enclosed and adapted as far as may be for keeping animals affected with any infectious or contagious disease separate and apart from those in health.

Justices to appoint pound keepers.

5. The justices in petty sessions assembled in and for any district in which any pound established under this Act may be situate shall so often as may be necessary appoint some fit and proper person to be poundkeeper of such pound and may remove any poundkeeper guilty of any neglect or offence under this Act Provided always that all pounds and poundkeepers established or appointed at the time of the passing of this Act shall be deemed to be pounds and poundkeepers established and appointed under this Act and subject to the provisions thereof.

Existing pounds continued. Poundkeepers to be appointed at special court of petty sessions.

6. Whenever the establishment of any pound shall have been notified as aforesaid or the office of any poundkeeper shall have become vacant the justice or justices present at the next ordinary court of petty sessions for the district after such notification or after such vacancy shall appoint a day not less than fourteen days thereafter for the holding of a special court of petty sessions for the appointment of a poundkeeper and the clerk of petty sessions shall forthwith give notice of the day so appointed to all justices resident within the police district Provided always that the justice or justices appointing such day may nominate some person to act temporarily as poundkeeper until such special court of petty sessions shall have been holden and a poundkeeper duly appointed Provided that all appointments of poundkeepers shall not be for a longer period than twelve months but all poundkeepers so appointed may at the expiry of each period of twelve months be eligible for re-appointment And provided further that no poundkeeper so appointed shall be permitted directly or indirectly to assist in impounding under a penalty of ten pounds.

Poundkeepers to give security.

7. Previous to the appointment of any such poundkeeper the justices making such appointment shall require the person about to be appointed to enter into a bond to Her Majesty with sufficient sureties in such amount as they may deem advisable conditioned that he shall well and truly perform the duties of such poundkeeper and account for and pay over all fees or moneys received by him in such capacity to such persons and in such manner as is by this Act directed.

Pounds and poundkeepers to be gazetted.

8. A notification of the appointment or removal of any poundkeeper or the establishment or abolition of any public pound shall be inserted in the *Government Gazette* and such notification shall be deemed and taken for all intents and purposes to be evidence that such poundkeeper or pound hath been legally appointed removed established or abolished as in the said notification is mentioned.

Poundkeeper to keep book for entry of all impounded cattle which book may be inspected.

9. The keeper of every public pound shall have and preserve at or near to the said pound a copy of this Act and shall also keep a pound-book ruled marked and divided into columns as near as may be in the form in the third schedule hereto and he shall enter into the said pound-book in a legible hand the particulars of all animals lodged in the pound specifying the day and hour as near as may be when and the cause for which the same were respectively impounded and the person by whom they were sent the time and mode of giving notice of the said impounding as by this Act required and also when and in what manner the same were released and by whose order and to whom delivered the particulars of all sales and of the proceeds thereof and the said entries shall be made at the time the said acts were respectively done or as soon after as possible but not after any dispute concerning such entry shall have arisen and a copy of this Act and the said pound-book shall once in every month if such pound be distant not more than twenty-five miles from any court of petty sessions be produced before the nearest bench of magistrates and shall at all reasonable times be produced by the said poundkeeper to and be open for the inspection of any Justice or member of the police force free of charge and of any other person desiring to see the same upon payment to the said poundkeeper of the sum of sixpence for every such inspection and the said poundkeeper shall grant extracts signed by himself from the said pound-book upon payment of one shilling for every such extract not exceeding one hundred words and for every subsequent number of words not exceeding one hundred sixpence and if any poundkeeper shall neglect or refuse to produce a copy of this Act or the said pound-book for the inspection of any Justice or member of the police force or of any person desiring to see the same upon his lawful fee for the same being first paid or offered to be paid or shall neglect to make any lawful entry therein he shall forfeit and pay for every such default a sum not exceeding five pounds and if any poundkeeper shall wilfully delay making any entry or shall knowingly make any false entry in the said pound-book or shall

wrongfully erase or destroy any entry previously made therein he shall forfeit and pay for every such offence a sum not exceeding twenty pounds and every poundkeeper on his resignation or removal shall deliver such pound-book to the clerk of petty sessions of the bench by whom he was appointed or to any person authorized by the petty sessions to receive it.

Book for particulars of stray cattle.

10. Every poundkeeper shall also keep a book in which he shall from time to time enter the descriptions of all stray animals coming under his observation or brought to his knowledge with the names and addresses of their owners if known to him and such other particulars as may lead to the recovery of them by their proprietors And such book shall at all reasonable hours be open to the inspection of any person on payment of a fee of one shilling.

Poundkeeper to keep register of brands.

11. Every poundkeeper shall also keep a book for registering the brands or other marks of animals and any person upon paying to the poundkeeper for his own use a fee of five shillings shall be entitled to have his brands together with his name and place of residence entered in such book.

Poundkeeper to repair, &c.

12. Every poundkeeper shall at his own cost keep the pound to which he is appointed clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and the poundkeeper may send such animals out of his pound at fit times and to fit places for grazing or watering but not more than six miles from the pound. Provided that every poundkeeper shall be responsible to the owner of any impounded animals for every loss or damage occasioned by any wilful act or neglect of himself or his servants.

Pound fees.

13. Every poundkeeper may demand and receive as pound fees for the animals impounded the several and respective sums following that is to say for the first or only head of horses cattle goats or swine the sum of sixpence and for every additional head of horses cattle goats or swine impounded at the same time and upon the same account the sum of threepence each and for the first or only sheep the sum of fourpence and for every additional sheep impounded at the same time and upon the same account the sum of one penny each.

Fees on impounding cattle.

14. The several sums so by this Act authorized to be demanded and taken by any such poundkeeper as pound fees shall be taken and deemed to be in full satisfaction as pound fees to such poundkeeper for three days consisting of seventy-two hours next after the time when such animals shall be so impounded whether such animals shall remain impounded during the whole or during a part only of seventy-two hours and after such three days it shall be lawful for any poundkeeper to demand and take one-half of the like sum at the rate hereinbefore mentioned for every additional seventy-two hours during the whole or any part of which any animals of the description hereinbefore mentioned shall remain in the custody of such poundkeeper in such pound.

Pound fees to be paid.

15. The fees as herein set forth may be demanded by any poundkeeper as the pound fees irrespective of the fees for food or for giving notice as hereinafter provided and all such fees shall be paid to such poundkeeper as remuneration for his services as poundkeeper and keeping the pound in repair.

Justices to fix fees for food.

16. The justices in petty sessions may from time to time appoint and fix the fees which it shall be lawful for the keeper of any pound to charge and receive for his own use for the sustenance of the animals impounded therein.

Rates of damage.

17. Any proprietor impounding any animals in the public pound may charge and receive for them respectively to his own use the rates of damage fixed by the first schedule hereto.

Rates of driving and how applied.

18. There shall be charged for the driving of any animals impounded rates per mile according to the scale fixed in the second schedule hereto including all tolls or ferry dues incurred in such driving and the amount of such rates shall once in every month be paid by the poundkeeper to the treasurer or other authorized officer of the benevolent asylum or hospital of the district where the pound is situate or if there be none in the district then the same shall once in each month be transmitted to the nearest benevolent asylum or hospital.

Increasing charge for repeated trespasses.

19. In every case in which the same animal shall be found trespassing on the same land more than once and any such trespass shall take place within thirty days after a preceding one there shall be charged for the second such trespass twice the rate of damage authorized by the first schedule.

Poundkeeper to post on gate notice of cattle in pound.

20. Within twenty-four hours after the impounding of any animals the poundkeeper shall post a written notice on the gate or on some other conspicuous part of the pound setting forth a description of such animals and such notice shall remain so posted until such animals shall have been claimed or otherwise disposed of according to this Act And every poundkeeper who shall neglect to post such notice or keep the same so

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posted shall for every day of such neglect be liable to a penalty not exceeding forty shillings.

Notice of impounding to be sent to proprietors.

21. When any cattle horses or sheep impounded in a public pound shall not be immediately claimed by the owner or some one on his behalf the poundkeeper shall within twenty-four hours thereafter send a notice to the owner if known and residing within ten miles of the pound and if residing at a greater distance then by a registered letter through the general post such notice to contain a description of such animals with their brands and marks the place from which and the person by whom they are impounded the date of their impounding a statement of the time and place of their intended sale if not duly released and the sum which shall at the date of such notice be lawfully chargeable on the same Provided that every proprietor residing within ten miles of a pound may instruct the poundkeeper in writing by which of such modes such notice shall be sent and the poundkeeper shall act accordingly. Provided also that when the poundkeeper knows the owner of any impounded goats or swine to be residing within three miles of the pound he shall forthwith send him notice of the impounding.

Notice to persons unknown.

22. If the owner be not known the poundkeeper shall within twenty-four hours after the impounding post a like notice at the nearest court of petty sessions and shall insert the same in the next practicable number of the *Gazette* and the nearest local newspaper.

Fees for notices of impounding.

23. Every poundkeeper shall demand and receive for every notice duly sent by post one shilling together with the amount of postage paid thereon and for every notice given by any other means at the rate of sixpence per mile with the actual cost of inserting any notice in the *Gazette* and local newspaper Provided that one notice only shall be charged for any number of animals belonging to the same owner and impounded at the same time Provided also that every poundkeeper shall detain all animals impounded until all fees and charges authorized by this Act shall be paid or tendered or until their sale.

Poundkeeper to erect board with fees to be painted thereon.

24. The keeper of every public pound shall erect and maintain on or near some conspicuous part of the said pound a board having painted thereon in legible white characters .on a black ground or black characters on a white ground a table of all the fees and charges he is by this Act or by the justices in petty sessions authorized to demand have and receive together with all rates of damages as allowed by this Act and if he shall fail to keep and maintain such board in proper repair after it has been erected or neglect to make any alteration therein which may afterwards become necessary within a reasonable time after the said alteration ought to be made or shall knowingly paint or cause to be painted any false statement thereon he shall forfeit and pay for every day that such board shall not be erected except during such reasonable time as the same shall be taken down for alteration or repair and for every day that such board shall not be maintained in proper repair or a lawful alteration be not made after a reasonable time for making the same respectively shall have elapsed as aforesaid the sum of one pound and for every day that he shall knowingly suffer any false statement to remain on the said board the sum of five shillings.

Damages and penalty for injury by neglect of poundkeeper.

25. If any poundkeeper wilfully suffer any animals affected with any contagious or infectious disease to be in the same enclosure with animals not so affected or shall fail to keep his pound clean and in good repair or shall take or demand any sum for anything done by him under this Act other than is hereby authorized or shall fail to pay to the proprietor on demand any damages received by him from the owner of impounded animals and not paid over as hereinafter enacted or shall fail to give any notice required by this Act or shall fail duly to provide any such animals with food and water or shall work or use any animals impounded or shall be guilty of any offence or neglect under this Act whereby damage is incurred by the Crown or by any person such poundkeeper shall be liable on conviction before the justices in petty sessions to pay a penalty not exceeding ten pounds and also to make compensation for any such damage.

Three days a month to be fixed for sales.

26. The Governor with the advice aforesaid may by notice in the *Gazette* and local newspaper fix some three days in every month on which sales of animals impounded may take place at the several pounds in the Colony. And every such sale shall take place on such days only unless any of them happen to be Good Friday Christmas Day or any public holiday and then on the next business day.

Sales to be held by clerk of petty sessions.

27. All such sales shall be by auction and shall be held and made by the clerk of petty sessions of the district in which the pound is situate or by such other person as the justices in petty sessions shall appoint and any such clerk of petty sessions or other person may hold and make such sales without being a licensed auctioneer.

28. All animals impounded under this Act shall be sold on the sale day next after the

tenth day after they were impounded in cases where notice of impounding shall have been given to the owner by delivering the same to him personally or by leaving the same at his usual place of abode and in all other cases on the sale day next after the twenty-fourth day after such notice shall have been despatched through the post or inserted in a local newspaper And all such sales shall take place at the public pounds where the said animals shall have been impounded and shall commence at the hour of noon and not more than ten head of sheep or goats or five pigs shall be put up in one lot and not more than one horse or one head of cattle and neither the person who impounded the said animals nor the person acting as auctioneer nor the poundkeeper nor his surety shall himself or by or through any other person purchase the said animals or any of them upon pain of forfeiting the same together with the purchase money and of paying the further penalty of five pounds for each offence.

Time and mode of selling animals impounded.

Who may not purchase.

29. The person holding any such sale shall receive the proceeds thereof and after retaining thereout a sum for commission at the rate of five pounds per centum upon the amount realized shall pay over the said proceeds to the poundkeeper and the said poundkeeper shall apply the said proceeds first in payment of all lawful fees rates and charges due to the poundkeeper next in payment of all damages and driving expenses and shall within ten days after any such sale transmit the residue of such proceeds to the Treasurer of the Colony together with a detailed account of the several animals sold and of the amount realized upon each lot and of the commission and other charges paid upon each lot.

Proceeds of sales, how disposed of.

30. Any moneys so transmitted to the said Treasurer shall be held by him in trust for the original owners of the several animals sold and in case no claim be made to such moneys within two years after the same were transmitted to the said Treasurer it shall be lawful for the Governor by warrant under his hand to direct that the same be paid to the treasurer or other authorized officer of the benevolent asylum or hospital of the district where the sale was held or if there be none in any such district then to the nearest benevolent asylum or hospital.

If not claimed in two years to go to charitable institution.

31. Every poundkeeper shall at the termination of every calendar month furnish to the clerk of petty sessions an account in writing in the form in the fourth schedule hereto of all impounded cattle sold during the month and shall with such account forward the certificates orders or authorities upon or under which such sales were made and the justices in petty sessions shall order the clerk of petty sessions to verify the same and to compare the said account with the said certificates orders or authorities and to cause any error or omission therein to be duly rectified by such poundkeeper and on being satisfied of the correctness thereof to forward the said account with a certificate of its correctness to the Treasurer of the Colony and a copy of such account shall also be affixed by such clerk of petty sessions on some conspicuous part of the courthouse for at least one month and if any poundkeeper or clerk of petty sessions shall fail or neglect to do and perform any of the several matters hereby directed by them respectively to be done and performed he shall forfeit and pay for every such offence any sum not exceeding five pounds.

Monthly account sales to be furnished by poundkeepers and certified copies transmitted to the treasurer.

32. Previous to any such sale being held the chief constable of the district or such other police officer as may be thereto appointed by the justices in petty sessions shall examine the animals impounded and the pound-book and shall certify under his hand that the animals intended for the then next sale are (if such be the case) correctly described in such pound-book and in the notices required by this Act and that sufficient time has elapsed to entitle such animals to be sold And no animals except in the cases provided for in the thirty-fourth and thirty-fifth sections of this Act shall be sold except upon such certificate.

Sales to be made upon certificate.

33. Any police officer giving a false certificate shall be liable in addition to dismissal to a penalty for each offence not exceeding twenty pounds.

Penalty for false certificate.

34. Any poundkeeper notwithstanding anything in this Act contained may without other preliminary than an order obtained from a justice cause to be sold at the next appointed day of sale any unbranded cattle or horses which have been impounded above the age of twelve months with their foals and calves if any.

Unbranded cattle to be sold outright.

35. Any poundkeeper may under the written authority of any owner of impounded animals cause the same to be sold at the then next appointed day of sale.

Animals may be sold on authority of owner.

36. Any proprietor upon whose land any animals are found trespassing may drive the same to the public pound nearest by a practicable road or highway to the land where the same were trespassing or if such land be equidistant or nearly so from two pounds then to either thereof and may on any business day between sunrise and sunset deliver them to the poundkeeper to be impounded and shall at the same time deliver a written memorandum specifying the number brands (if any) and description of the animals

Cattle trespassing to be impounded in nearest pound.

impounded the name of the owner or supposed owner (if known) the place where such animals were trespassing and the amount of damages claimed and any proprietor who shall impound any animals in any pound or place not authorized by this Act or in any manner contrary to its provisions shall upon conviction thereof forfeit and pay for each offence a sum not exceeding ten pounds.

Temporary detention in other place than pound.

37. Any proprietor upon whose land any cattle horses or sheep are found trespassing may if he know their owner temporarily impound the same in any convenient place for a period not exceeding four days Provided that he shall within twenty-four hours give like notice to such owner as hereinbefore enacted to be given by the poundkeeper in the case of animals not immediately claimed and shall feed and maintain such animals while so impounded and may at the expiration of such time if not sooner duly released deliver them to the poundkeeper to be impounded in the nearest public pound Provided also that he may make a charge for such feeding and maintaining them and for sending notice not exceeding such as might by law be made by the nearest poundkeeper but shall not be entitled to any compensation for damage except for such as was done before the temporary impounding.

Cattle trespassing may be taken home and damage recovered.

38. Any proprietor may send any animals found trespassing on his land to any convenient place near the residence of the owner and at the same time may demand payment of the damage done according to the rate fixed by the first schedule hereto and thereupon such owner shall pay the same as satisfaction of such trespass and if he fail to pay the same the justices in petty sessions may upon proof of the trespass and of the sum claimed being due and of such default being made order the said sum together with reasonable costs to be paid by the owner so making default.

If damages or impounding disputed animals to be released but poundkeeper to keep damages until appeal decided.

39. In case any animals shall be impounded and the owner shall dispute the amount of damages claimed or the nature of the trespass alleged to have been committed or shall deny the legality of the impounding such owner may allow such animals to remain in the pound until the case shall have been decided as hereinafter provided or may pay the damages demanded and the authorized pound fees and release the said animals giving at the same time notice to the poundkeeper that he intends to appeal against such damages or impounding (as the case may be) and upon receipt of any such notice the poundkeeper shall not pay over such damages to the impounding proprietor but shall retain the same until the case shall have been decided as hereinafter provided.

Justices in petty sessions to hear and decide upon legality of damages or impounding.

40. Any owner disputing the damages or impounding as aforesaid may make complaint to any justice who shall summon the person complained of to appear before the court of petty sessions and the justices assembled at such court shall summarily hear and determine the matter of such complaint and upon proof of the trespass and of the damages being duly claimed or of the legality of the impounding (as the case may be) shall order and award that the damages are legal and proper and thereupon if the animals impounded shall have continued in the pound the same course shall be observed with regard to their detention sale and other matters as if they had been impounded under ordinary circumstances or if the owner shall have released the said animals the poundkeeper upon the order of the said justices shall hand over to the impounding proprietor the damages retained by him as aforesaid but if it shall appear that the impounding was illegal or that the damages claimed were excessive then the said justices shall order accordingly and by such order may award to the owner of the animals impounded such compensation as they shall think fit not exceeding the amount of the damages claimed and may order the impounding proprietor to pay all pound fees sustentation fees and rates of driving in respect of the said animals and the justices hearing any such appeal may award costs to either party.

Costs.

Lodging animals for safe custody.

41. Any constable or police officer in charge of animals alleged or proved to have been stolen may lodge such animals in any public pound for safe custody and may remove or authorize the removal of the same at his discretion And in every such case the only charge made by the poundkeeper shall be the cost of sustaining such animals according to the scale for sustenance as aforesaid.

Goats or swine trespassing on enclosed lands may be destroyed.

42. The proprietor of any lands enclosed by a sufficient fence may destroy any goats or swine found trespassing thereon.

Animals not to be driven away without notice to owner of land.

Fine not to exceed ten pounds.

43. Every person who shall drive or attempt to drive any animals being his own or belonging to any person duly authorizing him from the land and out of the herds or flocks of any proprietor without first giving him notice of his intention so to do shall be liable for every such offence to a penalty not exceeding five pounds and every person who shall so drive or attempt to drive any animals not being his own or belonging to any person duly authorizing him as aforesaid shall be liable to a penalty not exceeding ten pounds Provided that nothing herein shall affect any criminal proceedings for such driving if applicable thereto.

Owners of entire horses and bulls trespassing to pay £5 damages.

44. The owner of any entire horse or bull above the age of one year which may be impounded or detained under the provisions of this Act shall be liable to pay by way of damages for every such horse or bull any sum not exceeding five pounds to the proprietor impounding any such animal besides all the legally authorized poundage fees and if the owner shall not release any such animal and such animal at the sale shall not realize sufficient to pay the said sum of five pounds besides the poundage fees as authorized by this Act the proprietor impounding may recover the balance from such owner before any two justices.

Travelling stock not to be impounded.

45. It shall not be lawful for the occupier of any unenclosed land through which any public road or thoroughfare may pass to impound the animals of any person who may be travelling along or through any such road or who may stop upon such land during one night or day for necessary rest unless such animals be at a greater distance from the centre of such road or thoroughfare than one-half of a mile or unless such animals be affected with catarrh or scab or other infectious or contagious disease.

This Act not to prevent actions for special damages.

46. Nothing herein contained shall extend or be construed to prevent the owner of any lands trespassed upon from waiving the ordinary damages allowed by this Act and claiming in any competent court full satisfaction for any special damage sustained by him in consequence of any trespass Provided that if the plaintiff in any suit or action for such special damages shall not after waiving the ordinary damages recover more than the amount of such ordinary damages then he shall not be entitled to or recover the costs of the said suit or action from the defendant in the same but the said defendant shall be entitled to or recover from the plaintiff the costs incurred by the said defendant and if the plaintiff in any suit or action for such special damage shall after waiving the ordinary damage become nonsuit or discontinue his said suit or action or a judgment be given against him therein the defendant in the said suit or action shall be entitled to and recover from the said plaintiff the full costs of such suit or action to be taxed as between attorney and client.

Penalty for rescue.

47. Every person who shall rescue or incite or assist any other person in rescuing any animals lawfully impounded or seized for the purpose of being impounded shall be liable upon conviction thereof before the justices in petty sessions to all costs and damages lawfully chargeable thereupon and also to a penalty not exceeding twenty pounds.

Wilful trespass.

48. Every person who shall wilfully let in or knowingly suffer to enter upon the enclosed land of any proprietor any animals without due authority shall be deemed guilty of a wilful trespass and shall be liable for every such offence to a penalty not exceeding ten pounds Provided that no conviction of such offence shall prevent any civil remedy against the offender.

Construction as to fencing adjoining farms.

49. In every case in which more proprietors than one hold lands enclosed by one common outward sufficient fence such lands shall for the purposes of the first schedule hereto be deemed as against all persons outside such general fence to be sufficiently fenced but as against each other in cases where no sufficient fence stands between them to be unenclosed lands.

Imprisonment in default of payment of penalties.

50. Whenever any fine penalty or costs shall have been imposed under the provisions of this Act and the person convicted shall not within two days after said conviction pay the same it shall be lawful for the convicting justices to order that the same be levied by distress and sale of the goods and chattels of such offender, or in default of such distress to direct that such person be imprisoned in any gaol or house of correction in the Colony with or without hard labour as they shall think fit for a period not exceeding two calendar months if the penalty shall not exceed ten pounds and for a period not exceeding four calendar months if the penalty be above ten and not exceeding twenty pounds and for a period of not exceeding six calendar months if the penalty be above twenty pounds unless such respective penalties and costs be sooner paid.

Proceedings to be in a summary way no *certiorari*.

51. All offences under this Act may be heard and determined in a summary way before any two or more justices in petty sessions, and no proceedings under this Act shall be removed by *certiorari* into the Supreme Court and all the forms of information summons warrants orders and convictions under this Act may be prepared in the form required by the Act of Parliament passed in the session of the eleventh and twelfth year of the reign of Her Majesty Queen Victoria intituled "An Act to facilitate the performance of "the duties of Justices of the Peace out of sessions within England and Wales with "respect to summary convictions and orders" Provided always that such proceedings shall not be invalidated if prepared in any other form which may substantially meet the merits of the case.

Appeal allowed.

52. Any person ordered or adjudged to pay any sum fine penalty or forfeiture amounting to the sum of five pounds who shall think himself aggrieved by the judgment of the justices adjudicating or before whom he was convicted may appeal to the next

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court of general and quarter sessions to be holden at or nearest to the district within which the same shall have taken place upon giving immediate notice to the justices of his intention so to appeal and finding sufficient security to their satisfaction for duly prosecuting such appeal at the said next court of general and quarter sessions and for abiding the determination of the said last-mentioned court thereon and the justices in such general and quarter sessions assembled are hereby authorized and required to hear and determine the matters of such appeal in a summary way and either to confirm or set aside the said conviction and to award such costs to either party as to them shall seem reasonable and such decision shall be final and conclusive.

Conviction under this Act bar to other proceedings.

53. Any judgment or conviction duly made under this Act may except in the case of wilful trespass be pleaded in bar of any suit action or information which shall be commenced instituted or prosecuted in any other court whatsoever for the same cause or offence.

Commencement and short title.

54. This Act shall commence and take effect on and after the first day of October next and shall be styled and may be cited as the "Impounding Act of 1863."

FIRST SCHEDULE.

RATES OF DAMAGE TO BE CHARGED FOR TRESPASS.

Description of Animals Trespassing.	In any paddock of grass enclosed by a sufficient fence.	In any garden, uncut meadow, or growing crop of any kind enclosed by a sufficient fence.
	s. *d.*	*s.* *d.*
For every horse, mare, gelding, colt, filly, ass, mule, bull, cow, ox, heifer, steer, calf	2 6	20 0
For every sheep	0 1	1 0
For every goat	5 0	20 0
For every pig	5 0	20 0

SECOND SCHEDULE.

RATES OF MILEAGE FOR DRIVING ANIMALS TO POUND.

Description of Animals Trespassing.	Per Mile.
Every horse, mare, gelding, bull, cow, ox, heifer, steer, calf	One half-penny per head.
Every one hundred rams, ewes, sheep, or lambs, or under that number	Sixpence.

THIRD SCHEDULE.

FORM OF POUNDKEEPER'S BOOK.

Date.	Time.	Particulars of animals impounded.	Brands and marks.	Owner.	By whom impounded.	For what cause impounded.	Time and mode of giving notice to owner.	How disposed of.	Time when released or sold.	Particulars of release or sale.

FOURTH SCHEDULE.

PARTICULARS OF THE SALE OF CATTLE AT FOR THE MONTH OF .

Date of Sale.	Description of Cattle.	Brands or Marks.	To whom sold.	Gross amount of Sale.	Particulars of Expenses deducted.	Nett produce of Sale.	To whom paid.	Remarks.

Dated at the day of 18

A. B., poundkeeper.

Examined by order of petty sessions at , and found to be correct.

C. D., Clerk of Petty Sessions.

QUEENSLAND.

ANNO TRICESIMO PRIMO VICTORIÆ REGINÆ.

No. 8.

AN ACT to Amend the Impounding Act of 1863 Amendment Act.

[*Assented to* 17*th December*, 1867.]

Preamble

WHEREAS it has been found that great abuses have in certain cases been caused by the provision in the "Impounding Act of 1863 Amendment Act" whereby the driving rates on cattle impounded are payable to the person impounding the same Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows—

Repealing section 7 of 29 Vict. No. 16.

1. From and after the passing of this Act the seventh section of the Act twenty-ninth Victoria number sixteen shall be and the same is hereby repealed.

This Act to be read and construed with 29 Vict. No. 16.

2. This Act shall be read and construed with and be deemed to be incorporated in the "Impounding Act of 1863" and the "Impounding Act of 1863 Amendment Act" respectively.

Driving charges to be as provided in schedule of 29 Vict. No. 16.

3. There shall be charged for the driving or leading of any animal rates per mile according to the schedule hereunto annexed exclusive of all tolls or ferry dues incurred in such driving or leading.

How half driving and damages charges for trespassing on unenclosed lands to be paid.

4. All moneys which may after the passing of this Act be received at any public pound for the driving or leading of any animals impounded from off unenclosed lands shall be paid by the poundkeeper as follows namely one-half thereof upon application to the proprietor impounding such animals for his own use and the other half on the last day of every month to the treasurer or other authorized officer of the public hospital nearest to the public pound at which such moneys may have been received and every poundkeeper shall forward monthly to the office of the Colonial Secretary the receipt of such treasurer or other authorized officer as aforesaid for the moneys so paid to him as aforesaid Provided always that all moneys received as aforesaid for the driving or leading of any animals impounded from off enclosed lands shall be paid to the proprietor impounding such animals for his own use Provided always that all moneys received for the driving or leading of entire horses and bulls and for the damage occasioned by the trespassing of such entire horses or bulls whether on enclosed or unenclosed lands shall be paid to the proprietor impounding such entire horses or bulls for his own use.

On enclosed lands to proprietor impounding.

Driving and damages charges for entire horses and bulls to be paid to proprietor impounding.

Commencement and short title.

5. This Act shall commence and take effect on and after the first day of January One thousand eight hundred and sixty-eight and may be cited as the "Impounding Act of 1863 Further Amendment Act."

AUSTRALIAN COLONIES.

SCHEDULE.

RATES OF MILEAGE FOR DRIVING ANIMALS TO POUND.

Description of Animals Trespassing.	Per Mile.
Every horse, mare, gelding, bull, cow, heifer, steer, or calf	Twopence per head.
Every one hundred rams, ewes, sheep, or lambs, or under that number	One shilling.

QUEENSLAND.

ANNO VICESIMO NONO VICTORIÆ REGINÆ.

No. 16.

AN ACT to amend the Impounding Act of 1863. [*Assented to* 13*th September*, 1865.]

Preamble. WHEREAS it is expedient to amend the "Impounding Act of 1863" Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the authority of the same as follows—

Repealing sections 18 and 43 and schedule 2 of the "Impounding Act of 1863."

1. From and after the passing of this Act the eighteenth and the forty-third sections and schedule two of the "Impounding Act of 1863" shall be and the same are hereby repealed.

Act to be read with "Impounding Act of 1863."

2. This Act shall be read and construed with and be deemed to be incorporated in the "Impounding Act of 1863."

Illegal entry on lands.

3. Every person who shall drive or attempt to drive any animal or animals being his own or belonging to any person duly authorizing him from the lands of any proprietor or out of the herds or flocks of any owner without first giving him notice of his intention so to do shall be liable for every such offence to a penalty not exceeding five pounds and every person who shall so drive or attempt to drive any animals not being his own or belonging to any person duly authorizing him as aforesaid shall be liable to a penalty not exceeding ten pounds Provided that nothing herein shall affect any criminal proceedings for such driving if applicable thereto.

Brands to be registered.

4. Every person in charge of horses being driven through any police district either for sale or otherwise shall give or cause to be given to the sub-inspector of police or in his absence to any other officer in charge at the police court in each and every district he may so travel through a correct list or return of the number sexes and brands of such horses specifying if any the different brands and the number of horses bearing each brand which list or return shall bear his signature and every person so registering shall be furnished by such officer with a certificate of such registration on payment of a fee of one shilling Any person failing to comply with the foregoing provision shall be liable to a penalty of not exceeding ten pounds and any person who shall wilfully or shall knowingly make a false return of the number of brands of the horses in his charge shall be liable to a penalty of not exceeding twenty pounds.

Book to be kept.

5. Every sub-inspector or other officer in charge as aforesaid shall keep a book in which he shall from time to time enter all such lists or returns and such book shall at all reasonable hours be open to the inspection of any person on payment of a fee of one shilling.

Exemptions.

6. No person shall impound any horses employed by the police force of the Colony or the public property of the Government and no damage for trespass or driving expenses shall be chargeable on account of any such horses.

Charges for driving, how disposed of.

7. Any proprietor impounding any animals in the public pound may charge and receive for them respectively to his own use the rates for the driving of the same according to the scale fixed in the schedule hereto exclusive of all tolls or ferry dues incurred in such driving.

Short title.

8. This Act shall commence and take effect on and after the first day of January One thousand eight hundred and sixty-six and shall be styled and may be cited as the "Impounding Act of 1863 Amendment Act."

SCHEDULE.

RATES OF MILEAGE FOR DRIVING ANIMALS TO POUND.

Description of Animals Trespassing.	Per Mile.
Every horse, mare, gelding, bull, cow, heifer, steer, or calf	Twopence per head.
Every one hundred rams, ewes, sheep, or lambs, or under that number	One shilling.

No. 39.

No. 39.

TASMANIA.

COPY of a DESPATCH from Governor DU CANE to the EARL of KIMBERLEY.

(No. 56.) Government House, Tasmania,
December 30th, 1870.

MY LORD,

In reply to your Lordship's Circular Despatch of the 2nd of August, 1870, requesting me to forward copies of any enactments in force in this Colony as to trespass and the preservation of game, I have the honour to enclose copies of three Acts passed by the Tasmanian Parliament in reference to these subjects.

2. The Trespass Act, 26 Vict. No. 7, was, as I am informed by the Attorney-General, passed rather in the interests of sheep-owners than game preservers. The holders of large tracts of country used as sheep-runs, wished for protection against the incursions of persons engaged in kangaroo hunting, and the Act in question was passed at the instance of the sheep-owners.

3. The other Acts, 29 Vict. No. 22, and 32 Vict. No. 26, endeavour to provide for the protection of both imported pheasants, partridges, grouse, and hares, and for native game as defined in the Act. They are, however, considered only moderately effective in their provisions, and those interested in game desire enactments of greater stringency.

4. The Native Game Act virtually only provides for the protection of native game during the breeding months. For shooting such game during the open months no game certificate is required, and the only protection an owner or occupier of land has against native game being shot upon his land, without his permission, lies under the Trespass Act.

5. I can myself testify to the very small effect any dread of the penalties to be incurred under this Act has in keeping off intruding shooters.

I have, &c.,
(Signed) CHARLES DU CANE.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

TASMANIA.

Enclosure 1 in No. 39.

ANNO VICESIMO SEXTO VICTORIÆ REGINÆ.

No. 7.

AN ACT to make better Provision for the Protection of Lands from Trespassers.

[25*th September*, 1862.]

WHEREAS it is expedient to make provision for the protection of lands from trespass: Preamble.

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly in Parliament assembled, as follows:

1. Any person who, without reasonable or lawful excuse, enters upon the lands of any other person, without the consent of the owner or occupier thereof, or the person in Penalty upon unlawful entry upon any

AUSTRALIAN COLONIES.

charge of the same, shall forfeit and pay any sum not exceeding forty shillings; and the proof of such reasonable or lawful excuse shall be upon the person charged with any offence against the provisions of this Act.

owner or occupier's lands.

Persons violating this Act may be prosecuted.

2. Any person who may be found committing any offence against any of the provisions of this Act, shall, when thereunto required by the owner or occupier or lawful agent, or any person authorized in writing by the owner or occupier or lawful agent of such lands, give his name and place of abode, and any person who, upon being so required to give his name and place of abode, refuses or neglects so to do, or gives any false or fictitious name or place of abode, shall forfeit and pay any sum not exceeding five pounds.

Recovery of penalties. 19 Vict. No. 8.

3. All penalties for offences against this Act may be recovered summarily before any two or more Justices of the Peace, in the mode prescribed by "The Magistrates Summary Procedure Act."

Limitation of actions.

4. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within two calendar months after the fact was committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence.

General issue.

Information may be pleaded in bar to action, &c.

5. Every information laid under this Act may be pleaded as and shall be a bar to any action of trespass or other proceeding instituted in respect of the subject matter of such information against the defendant in such information.

Short title.

6. In referring to this Act it shall be sufficient to use the expression "The Trespass to "Lands Act, 1862."

Enclosure 2 in No. 39.

TASMANIA.

ANNO VICESIMO NONO VICTORIÆ REGINÆ,

No. 22.

An ACT to provide temporarily for the Protection of Imported Game.

[29*th September*, 1865.]

WHEREAS it is expedient that encouragement should be given to the importation and propagation of foreign game, by providing temporarily for the protection of such game from destruction: Be it therefore enacted by his Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly in Parliament assembled, as follows:—

Interpretation. "Game."

1. For the purposes of this Act, the term "Game" shall mean and include all birds and other animals mentioned in the schedule to this Act: Provided that it shall be lawful for the Governor in Council, at any time after the passing of this Act, by Proclamation, to name any other bird or animal which shall be included in the schedule; and after the publication of any such Proclamation in the *Government Gazette*, and the expiration of the period mentioned in such Proclamation for the time of its coming into operation, the birds or other animals so named shall be deemed and considered as being included in the schedule at the time of the passing of this Act.

Penalty for killing game.

2. If any person kills or takes any game, or uses any dog, gun, net, or other engine or instrument for the purpose of killing or taking any game, every such person shall for every head of game so killed or taken, or every such offence of so using any dog, gun, net, or other engine or instrument, incur a penalty not exceeding twenty pounds: Provided that nothing herein contained shall extend to any person killing or taking on his own land game turned out or bred by himself.

Possession of game illegal.

3. If any person buys or sells, or knowingly has in his house, possession, or control any game, except live game kept or to be kept in a mew or breeding-place, every person shall, for every head of game so bought or sold, or found in his house, possession, or control, incur a penalty not exceeding twenty pounds.

Penalty for taking or destroying eggs of game.

4. If any person wilfully takes out of the nest, or destroys in the nest, the eggs of any bird of game, or knowingly has in his house, possession, or control any such eggs, every such person shall, for every egg so taken or destroyed, or so found in his house, possession, or control, incur a penalty not exceeding five pounds: Provided, that nothing in this section contained shall extend to the owner of any mew or breeding-place for game in respect of eggs in or taken from the nest in such mew or breeding-place, or to any person to whom such owner may give any such eggs in respect of such eggs.

AUSTRALIAN COLONIES.

Apprehension of offenders.

5. When any person is found killing or taking any game, or using any dog, gun, net, or other engine or instrument for the purpose of killing or taking any game, or having in his possession or control any game, or taking out of the nest, or destroying in the nest, the eggs of any bird of game, or having in his possession or control any such eggs contrary to the provisions of this Act, it shall be lawful for any person to require the person so found offending forthwith to desist from such offence, and to deliver up any game or eggs so unlawfully in his possession, and also to tell his Christian name, surname, and place of abode; and in case such person so found offending, after being so required, does not immediately deliver up such game or eggs, or refuses to tell his real name or place of abode, or gives such a general description of his place of abode as is illusory for the purpose of discovery, or wilfully continues to offend against this Act, it shall be lawful for the person so requiring as aforesaid, and also for any person acting by his order and in his aid, to apprehend such offender, and to seize such game or eggs, and to convey such offender, or cause him to be conveyed as soon as conveniently may be, before a Justice of the Peace to be dealt with according to law: Provided always, that no person so apprehended shall, on any pretence whatsoever, be detained for a longer period than twenty-four hours from the time of his apprehension before he is brought before some Justice of the Peace; and that if he cannot, on account of the absence or distance of the residence of any such Justice of the Peace, or owing to any other reasonable cause, be brought before a Justice of the Peace within such twenty-four hours as aforesaid, then the person so apprehended shall be discharged, but may nevertheless be proceeded against for his offence by summons or warrant as if no such apprehension had taken place.

Recovery of penalties. 19 Vict. No. 8.

6. All offences against this Act shall be heard and determined, and all penalties be recovered in a summary way, by and before any Two or more Justices of the Peace in the mode prescribed by "The Magistrates Summary Procedure Act;" and any person aggrieved by any summary conviction under this Act may appeal therefrom in the manner directed by "The Appeals Regulation Act."

19 Vict. No. 10.

Justices may dismiss frivolous complaints.

7. For the prevention of frivolous and unnecessary prosecutions, it shall be lawful for the Justices hearing any information or complaint under this Act to dismiss such information or complaint, which dismissal shall be a bar to any other proceeding whatever against the same person for the same matter.

Limitation of actions. Notice of action.

8. No action shall be brought against any person for anything done in pursuance of this Act unless such action is commenced within three months after the cause of action has arisen, nor unless notice in writing of such action, and the cause thereof, is given to the defendant one month at least before the commencement of the action, and the defendant may plead the general issue, and give this Act and the special matter in evidence; and the plaintiff shall not recover in such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into Court after action brought; and if a verdict is given for the defendant, or the plaintiff is nonsuited or discontinues his action, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client; and though a verdict is given against the defendant, the plaintiff shall not have costs against the defendant unless the Judge who tries the case certifies his approbation of the action, and of the verdict.

General issue. Tender of amends. Costs.

Repeal of 24 Vict. No. 18.

9. The Act of the Parliament of Tasmania of the 24th Victoria, No. 18, is hereby repealed: Provided that such repeal shall not affect,—

1. Any liability accruing before this Act commences and takes effect:
2. Any punishment incurred or to be incurred in respect of any offence committed before this Act commences and takes effect:
3. The institution of any legal proceeding, or any other remedy for enforcing any such liability or punishment as aforesaid.

Duration of Act.

10. This Act shall continue and be in force until the end of the first Session of the Parliament of Tasmania which is held in the year 1870, and no longer.

SCHEDULE.

Pheasants.
Partridges.
Grouse.
Hares.

AUSTRALIAN COLONIES.

Enclosure 3 in No. 39.

TASMANIA.

ANNO TRICESIMO QUARTO VICTORIÆ REGINÆ.

No. 25.

AN ACT to continue an Act to provide temporarily for the protection of Imported Game.

[18*th October*, 1870.]

Preamble. 29 Vict. No. 22.

WHEREAS by the Act of Parliament of the 29th Victoria, No. 22, it was amongst other things enacted that the said Act should continue and be in force until the end of the first Session of the Parliament of Tasmania, which should be holden in the year 1870, and no longer: And whereas it is expedient to continue the said Act for a further period:

Continues 29 Vict. No. 22, until Session of 1875.

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, that the said Act of Parliament of the 29th Victoria, No. 22, shall continue and be in force until the end of the first Session of the Parliament of Tasmania which is held in the year 1875 and no longer.

Enclosure 4 in No. 39.

TASMANIA.

ANNO TRICESIMO SECUNDO VICTORIÆ REGINÆ.

No. 26.

AN ACT to provide for the Protection of Native Game and other Birds.

[17*th September*, 1868.]

Preamble.

WHEREAS it is expedient that protection should be afforded by law to the native game and other birds of this island:

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Explanation of term "native game."

1. For the purposes of this Act the term "native game" shall mean and include wild ducks, teal, widgeon, quail, plover, emu, black swans, ground doves, Cape Barren geese, and bronze-winged pigeons, whether such birds are alive or dead.

Penalty for killing or taking, &c., native game.

2. If any person kills, takes, or captures, or has in his possession or control, either alive or dead, and either on his own land or on that of any other person, any native game during the breeding season of such game, such person shall for every head of native game so killed, taken, or captured by him, or so found in his possession and control, forfeit and pay a penalty not exceeding forty shillings: Provided that nothing in this Act contained shall prevent any person from keeping native game in a mew or breeding-place for breeding purposes.

Breeding seasons.

3. The following shall be deemed to be the breeding seasons for native game; that is to say,—

For wild ducks, teal, widgeon, plover, emu, black swans, ground doves, Cape Barren geese, from the First day of August in every year to the Tenth day of January in every succeeding year.

For pigeons, from the First day of August in every year to the Tenth day of February in every succeeding year.

For quail, from the First day of August in every year to the Twentieth day of April in every succeeding year.

Penalty for taking or destroying eggs of native game.

4. If any person takes or wilfully destroys the eggs of any native game, every person so offending shall forfeit and pay a penalty not exceeding forty shillings for every such egg so taken or wilfully destroyed as aforesaid.

Governor may, by proclamation, include other

5. It shall be lawful for the Governor, by Proclamation in the *Gazette*, to name any other bird or birds which shall be included in the term "native game," and to appoint the period which shall be deemed to be the breeding season of such bird or birds; and,

after the expiration of the period mentioned in such Proclamation for the time of its coming into operation, the bird or birds so named shall be included in the term "native game," and the period so appointed shall be deemed the breeding season of such bird or birds.

birds in the term "native game."

6. If any person shoots or wilfully kills any native white magpie, or destroys the eggs of any such magpie, he shall for every such offence forfeit and pay a penalty not exceeding twenty shillings.

Penalty for killing native magpies or destroying their eggs.

7. When any person is found, contrary to the provisions of this Act, killing or taking any native game, or using any dog, gun, or other instrument for that purpose, it shall be lawful for any person to require the person so offending forthwith to desist from such offence, and to deliver up any native game unlawfully in his possession, and also to tell his christian name, surname, and place of abode; and in case such person so found offending, after being so required, does not immediately deliver up such native game, or refuses to tell his name or place of abode, or gives such a general description of his place of abode as is illusory for the purpose of discovery, or wilfully continues to offend against this Act, it shall be lawful for the person so requiring as aforesaid, and also for any person acting by his order and in his aid, to apprehend such offender, and to seize such native game, and to convey such offender, or cause him to be conveyed as soon as conveniently may be, before a Justice of the Peace to be dealt with according to law: Provided always, that no person so apprehended shall, on any pretence whatsoever, be detained for a longer period than twenty four hours from the time of his apprehension before he is brought before some Justice of the Peace; and if he cannot, on account of the absence or distance of the residence of any such Justice of the Peace, or owing to any other reasonable cause, be brought before a Justice of the Peace within such twenty-four hours as aforesaid, then the person so apprehended shall be discharged, but may nevertheless be proceeded against for his offence, by summons or warrant, as if no such apprehension had taken place.

Persons found taking game may be apprehended.

8. If any person knowingly sets at large, or is concerned in setting at large, or attempts to set at large, any weasel, ferret, or domestic cat, every such person shall, for every such animal, forfeit and pay a penalty not exceeding five pounds.

Penalty on persons setting weasels, &c., at large.

9. All offences against this Act shall be heard and determined, and all penalties be recovered in a summary way by any two or more Justices of the Peace, in the mode prescribed by "The Magistrates Summary Procedure Act;" and any person aggrieved by any conviction under this Act may appeal therefrom in manner directed by "The "Appeals Regulation Act."

Penalties to be recovered in a summary way.

10. For the prevention of frivolous and unnecessary prosecutions, it shall be lawful for the Justices hearing any information or complaint under this Act to dismiss such information or complaint, which dismissal shall be a bar to any other proceeding whatever against the same person for the same matter.

Justices may dismiss frivolous complaints.

11. No action shall be brought against any person for anything done in pursuance of this Act unless such action is commenced within three months after the cause of action has arisen, nor unless notice in writing of such action, and the cause thereof, is given to the defendant one month at least before the commencement of the action; and the defendant may plead the general issue, and give this Act and the special matter in evidence; and the plaintiff shall not recover in such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into court after action brought; and if a verdict is given for the defendant, or the plaintiff is nonsuited or discontinues his action, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client; and though a verdict is given against the defendant, the plaintiff shall not have costs against the defendant unless the Judge who tries the case certifies his approbation of the action, and of the verdict.

Limitation of actions.

Notice of action.

General issue.

Tender of amends.

Costs.

12. The Acts in the schedule are hereby repealed, except as to all offences committed before the commencement of this Act.

Repeal.

13. This Act may be cited as "The Native Game Act."

Short title.

AUSTRALIAN COLONIES.

SCHEDULE.

ACTS TO BE REPEALED.

Date and Number of Act.	Title of Act.
24 Vict. No. 19.	An Act to provide for the Protection of Native game during the breeding Season.
24 Vict. No. 20.	An Act to provide for the Protection of Black Swans.
25 Vict. No. 19.	An Act to amend an Act, intituled "An Act to provide for the Protection of Native Game during the Breeding Season."
27 Vict. No. 17.	An Act to amend an Act, intituled "An Act to amend an Act to provide for the Protection of Native Game during the Breeding Season."

No. 40.

No. 40.

SOUTH AUSTRALIA.

COPY of a DESPATCH from Governor SIR JAMES FERGUSSON to the EARL of KIMBERLEY.

(No. 78.)

Government House, Adelaide,
6th October, 1870.

MY LORD,

In reply to your Lordship's Circular Despatch of 2nd August, 1870, I have the honour to enclose a copy of Act No. 23, of 1864, South Australia, which is the only Act in force in this Colony relative to the preservation of game and to trespass on land.

I have to state that the close seasons therein fixed for the various kinds of birds and animals do not in some cases coincide with the breeding seasons; and that it is the intention of the Government to introduce a Bill to amend the Act in that respect.

I have, &c.,
(Signed) JAMES FERGUSSON,
Governor.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 40.

Enclosure in No. 40.

ANNO VICESIMO SEPTIMO ET VICESIMO OCTAVO.

VICTORIÆ REGINÆ. A.D. 1864.

No. 23.

AN ACT to prevent the Wanton Destruction of certain Wild and Acclimatised Animals.

[*Assented to 9th December*, 1864.]

Preamble. WHEREAS it is expedient to prevent the wanton destruction of certain wild animals—Be it therefore enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

Penalty for killing birds, not indigenous, out of season. 1. If any person shall, during the close season mentioned in the Schedule to this Act, wilfully kill or destroy any bird or beast of the species mentioned in the said Schedule, not being domesticated, or shall use any instrument, net, or other means, during such season, for the purpose of killing or destroying any such bird or beast, he shall, upon conviction, forfeit and pay a sum not exceeding the sum of two pounds, in addition to

the sum of five shillings for each bird or beast so killed or destroyed: Provided that this clause shall apply only within the limits of counties and hundreds, and the rivers, creeks, lakes, and other inland waters adjacent to counties and hundreds.

Proviso.

2. If any person shall wilfully kill or destroy any bird or beast, or shall use any instrument, net, or other means for the purpose of killing or destroying any bird or beast, or the eggs or young of any bird or beast, or enter for the purpose of killing or destroying any bird or beast, or the eggs or young of any bird or beast, on any enclosed land, except any land whereof he is owner or occupier, without having first obtained permission from the owner or occupier of such land, he shall, on conviction, forfeit and pay a sum not exceeding five pounds, in addition to the sum of five shillings for each bird or beast so destroyed: Provided that this clause shall have effect only within the limits of counties and hundreds.

Penalty for trespassing in pursuit of animals.

3. In any proceeding for any offence against the last preceding clause, the proof of permission having been obtained, shall lie on the defendant.

Proof of permission having been obtained to be given by defendant.

4. Nothing in this Act shall remove the liability of any person to an action for damages, in respect of any bird or beast destroyed or injured by such person.

Action for damages.

5. If any person shall sell, or offer for sale, or have in his possession, during the close season, as mentioned in the said Schedule, except during seven days after the commencement of such season, any of the birds or beasts mentioned in the said Schedule, and not being domesticated, such person shall be liable to a penalty of not less than forty shillings, nor more than ten pounds: Provided that this clause shall not apply to any such bird or beast, unless such bird or beast shall have been killed or destroyed contrary to the provisions of this Act; and proof that such bird or beast was domesticated, or shall have been lawfully killed or destroyed, shall lie on the defendant.

Penalty on sale during close season.

6. Nothing in this Act shall prevent any aboriginal native from killing for his own consumption, and consuming any of the native animals mentioned in the said Schedule.

Act not to apply to aborigines.

7. All fines and penalties for any offence against this Act may be recovered in a summary way, before any special Magistrate or two Justices of the Peace, under the provisions of an Ordinance, No. 6, of 1850, "To facilitate the performance of the duties "of Justices of the Peace out of Session, with respect to summary convictions and orders," or of any Act hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders; and all convictions and orders may be enforced as in the said Ordinance is mentioned.

Summary procedure.

8. Informations may be laid for any offence against this Act at the instance of any person.

Who may lay informations.

9. One moiety of every penalty recovered for any offence against this Act shall be paid to the complainant or informant, and the other to the Treasurer for the use of Her Majesty, Her heirs and successors, for the public use of the said Province.

Appropriation of penalties.

10. There shall be an appeal from any order or conviction of any special Magistrate or Justices under this Act, or from any order dismissing any information, or for the payment of costs, or otherwise, which appeal shall be to the Local Court of Adelaide of full jurisdiction only, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No. 6, of 1850, for appeals to Local Courts; but such Local Court of Adelaide, aforesaid, may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed ten pounds.

Appeal.

In the name and on behalf of the Queen, I hereby assent to this Act.

D. DALY,
Governor.

AUSTRALIAN COLONIES.

SCHEDULE REFERRED TO.

IMPORTED OR ACCLIMATISED ANIMALS.

Pheasants Partridges Grouse Swans Sparrows Thrushes Linnets Deer Hares Antelopes Rabbits Finches Blackbirds Starlings	Close season—From 1st August to 31st December.

NATIVE BIRDS.

Landrails Wild Ducks Teal Plover Water Hens Widgeon Bitterns Herons Quail Black Swans Nankeen Birds Geese— Grey White Black	Close season—1st September to 30th November.
Turkey Bustards Pheasants Emus Laughing Jackasses Magpies Pigeons Curlews	Close season—1st August to 30th November.

No. 41.

No. 41.

WESTERN AUSTRALIA.

COPY of a DESPATCH from Governor WELD to the EARL of KIMBERLEY.

(No. 134.)

Government House, Perth,
5th October, 1870.

MY LORD,

5th October, 1870.

With reference to your Lordship's Circular Despatch, dated August 2nd, 1870, asking for information respecting the laws in force in this Colony as to Trespass, and also as to the Preservation of Game, I have the honour to transmit to you the Memorandum by the Attorney-General on this subject, enclosing copies of enactments in force in this Colony having reference to Trespass.

I have, &c.,
(Signed) FRED. A WELD,
Governor.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

MEMORANDUM on the Despatch of the Secretary of State for the Colonies, addressed to his Excellency the Governor, dated the 2nd August, 1870.

The several Ordinances of Western Australia on the subject of Trespass, specified in the margin, seem sufficiently explanatory in their preambles. With regard to the 32 Vict., No. 2, it may be observed, it seemed called for in order to give legal effect to that part of the Regulations for the sale, letting, disposal, and occupation of the Waste Lands of the Crown [Imperial Statutes 18 & 19 Vict., cap. 57, sec. 7], which declared that purchasers of land within the limits of Class A licences and Class B leases should have no claim for trespass by stock, unless committed within lands that might at the time of trespass be properly fenced.

With reference to laws for the preservation of game, as yet no such regulations have been made law in Western Australia.

(Signed) GEORGE F. STONE,
Attorney-General.

5th October, 1870.

3 Vict., No. 2.
6 Vict., No. 2.
14 Vict., No. 24.
21 Vict., No. 7.
24 Vict., No. 8.
28 Vict., No. 14.
28 Vict., No. 15.
30 Vict., No. 6.
32 Vict., No. 2.

WESTERN AUSTRALIA.

ANNO TERTIO VICTORIÆ REGINÆ.

No. 2.

AN ACT to provide a remedy against Horses and other Live Stock straying in Towns, and to prevent Entire Horses and Bulls straying in any part of the Colony.

Preamble.

WHEREAS, the practice of permitting horses and other live stock to stray about towns, without being attended by any keeper, is the cause of much injury and annoyance, and is productive of danger to the inhabitants: Be it therefore enacted by the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, that any person who shall suffer any horses, cattle, or any other description of live stock to go loose about any town without being attended by a keeper, shall, upon conviction thereof before any Justice of the Peace, for every such offence, if committed in the day-time, forfeit and pay any sum not less than Five shillings, nor more than Twenty shillings, but if committed in the night-time, then any sum not less than Ten shillings, nor more than Forty shillings,—notwithstanding that the animal shall not have been seized or detained; but if the animal shall have been seized and detained, then the Justice shall, over and above such fine, allow in his discretion any reasonable sum to the person so seizing and detaining the same as a remuneration for his time, and in proportion to the trouble and expense incurred.

Any person suffering any description of live stock to stray about a town, to forfeit not less than 5*s.* nor more than 20*s.* if in the day-time, and not less than 10*s.* nor more than 40*s.* if in the night-time.

II. And whereas great injury has arisen to the breed of horses and horned cattle by reason of entire horses and bulls being allowed to stray and run at large: Be it therefore enacted, that on proof before any Justice of the Peace that any entire horse or bull has been wilfully or negligently suffered to stray and run at large within the said Colony, whether on a townsite or not, the owner of any such horse or bull above the age of one year shall forfeit and pay any sum not less than Two pounds, nor more than Four pounds, if the offence be committed in the day-time: and any sum not less than Three pounds, nor more than Five pounds, if the offence be committed in the night-time.

Any person suffering any entire horse or bull to stray, to forfeit any sum not less than two pounds nor more than four pounds, if in the day-time, and not less than three pounds, nor more than five pounds, if committed in the night-time.

III. And be it further enacted, that nothing in this Act contained shall be construed to prevent any person from recovering any amount of damage for trespass to which he may be entitled under any other Act in force in the said Colony.

This Act not to prevent any person from recovering any damages to which he may be entitled under any other Act.

IV. And be it further enacted, that all fines and penalties imposed by this Act shall be recovered in a summary way before any Justices of the Peace for the said Colony, and shall, if not paid within six days after conviction, be levied by distress and sale of the offender's goods and chattels; and the money arising by such fines, penalties, and forfeitures, shall go one-half to the use of our Sovereign Lady the Queen, for the support of the Government of the said Colony, and the other half to the person informing or complaining of the offence committed.

Penalties and forfeitures to be recovered in a summary way, and to go one half to the colonial fund, and one half to the party complaining.

V. And be it further enacted, that this Act shall continue in force for three years from the date of its passing the Legislative Council, and from thence to the end of the next sitting of the Legislative Council.

Act to continue in force for three years.

(Signed) JOHN HUTT,
Governor and Commander-in-Chief.

Passed the Legislative Council the 28th day of October, 1839.

(Signed) WALKINSHAW COWAN,
Clerk of the Council.

AUSTRALIAN COLONIES.

WESTERN AUSTRALIA.

ANNO SEXTO VICTORIÆ REGINÆ.

No. II.

AN ACT to make perpetual an Act entitled "An Act to provide a remedy against Horses "and other Live Stock straying in Towns, and to prevent Entire Horses and "Bulls straying in any part of the Colony." [21*st July*, 1842.]

Preamble. WHEREAS an Act was passed in the third year of the reign of Her present Majesty, entitled, "An Act to provide a remedy against Horses and other Live Stock straying in "Towns, and to prevent Entire Horses and Bulls straying in any part of the Colony," which said Act is about to expire; and whereas it is expedient that the said Act should be made perpetual: Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that the said Act shall be, and the same is hereby made perpetual.

3rd Vict., No. 3 about to expire. Made perpetual.

Act may be amended. II. And be it enacted, that this Act may be amended or repealed by any Act to be passed during the present Session.

(Signed) JOHN HUTT,
Governor and Commander-in-Chief.

LS

Passed the Council, 21st July, 1842.

(Signed) WALKINSHAW COWAN,
Clerk of the Council.

WESTERN AUSTRALIA.

ANNO DECIMO QUARTO VICTORIÆ REGINÆ.

No. XXIV.

AN ORDINANCE to prevent vexatious proceedings in certain cases of unavoidable Trespass.

[21*st May*, 1851.]

Preamble. WHEREAS the measure recently adopted in this Colony of disposing of the lands of the Crown, under grazing and tillage leases, renders unavoidable the passing over tracts of ground either previously granted in fee, or otherwise assigned under such leases as aforesaid, for the purpose of reaching other lands lying beyond the same: and whereas, with the force at present at the disposal of the Survey Department of this Colony, much time will be required to lay out and open such a system of main and branch lines of road as may be required for the purpose of the necessary internal communication consequent upon such a measure as aforesaid; and whereas, it is expedient in the meantime to prevent numerous vexatious complaints on account of such unavoidable trespass as above-mentioned: Be it therefore enacted, by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, that in any case of a complaint for trespass committed upon the land of another, either by driving flocks and herds, or by riding, driving, or conducting any horse or vehicle across the same, if it shall be made to appear to the satisfaction of the Justice or Justices hearing the said complaint that the party complained of was at the time of such alleged trespass *bonâ fide* engaged in some lawful business or pursuit, which by reason of the non-existence of any neighbouring road, or customary thoroughfare, could not have been accomplished without such trespass, save by a wide circuit and a considerable loss of time and labour, and that such party had traversed the ground and effected the passage in such a manner as to commit as little injury as practically possible to the said land, or to the natural pasture growing thereon, and without wilfully making any unnecessary deviation from the most direct course across the same, and without loitering or making any wilful delay thereon, then in every such case it shall be in the discretion of the said Justice or Justices to refrain from awarding any sum whatever, either for damages, penalties, or costs, for such trespass. Provided, always, nevertheless, that no fences were broken down, opened, or removed, no cultivated grounds passed over, and no actual damage done thereby, other than to the natural pasture growing on the soil, and that to such an extent only in each case as was practically unavoidable.

Where trespass unavoidable, justice may refrain from awarding damage:

Provided no damage has been done other than to natural pasture.

2. And be it enacted, that if any river, creek, lagoon, or estuary shall be fordable at

AUSTRALIAN COLONIES.

a place where either of the banks thereof is private property, and it shall be made to appear to the satisfaction of the Governor that a thoroughfare across such ford would, by reason of the want of any neighbouring ford or bridge, be a necessary or considerable public convenience to residents in, and travellers through the circumjacent district, it shall be lawful and competent to the Governor, by notice to that effect in the Government *Gazette*, to constitute such ford, together with convenient access and egress, a temporary public thoroughfare, and, at the public expense, to cause to be laid out, and fenced in on either side with post-and-two-rail fence, such access and egress (as far as the same shall run through land already enclosed) by means of a roadway not exceeding thirty-three feet in breadth over the lands adjacent to either extremity of such ford: Provided, always, that the right of property in the soil of any such roadway, and in the fences thereof, laid out and erected under this Ordinance, shall, subject to the public right of passage erected by such notice, be in the person or persons who are or were proprietors of such soil at the time of making such roadway, his, her, or their heirs or assigns, but without prejudice to the powers of the Governor, or of any other person or persons under any other Ordinance provided for the construction of public roads; provided, further, that it shall be lawful for the Governor, by any notice to be published in the Government *Gazette*, to rescind and revoke any previous notice constituting any such public thoroughfare as aforesaid; and thereupon the ford, referred to by such rescinding notice, and any road leading thereto or therefrom over private property, laid out under the provision of this Ordinance, shall cease to be a lawful public thoroughfare.

Fords lying between private property may be constituted temporary public thoroughfares; such roads through enclosed grounds are to be fenced at public expense; property in soil and fence to remain in owner of the ground, subject to right of passage.

Notice constituting thoroughfare may be rescinded.

3. And be it enacted, that nothing herein contained shall be deemed or taken to interfere with any of the provisions of an Ordinance passed in the 7th year of the reign of Her present Majesty, entitled "An Act to prevent the spreading of the infectious "disease called the Scab in Sheep in the Colony of Western Australia."

Not to interfere with 7th Vict., No. 15.

4. And be it enacted, that whenever and so often as any public line or lines of communication shall be opened and completed in any particular district, it shall be lawful for the Governor, by proclamation in the Government *Gazette*, to declare that the provisions of this Ordinance shall no longer apply in such district, and thereupon such provisions shall immediately cease to be applicable thereto, save and except as to any trespass, or alleged trespass, which shall have occurred before the time of publication of such proclamation.

Duration of this Ordinance.

(Signed) CHARLES FITZGERALD,
Governor, and Commander-in-Chief.

Passed the Legislative Council, the 21st day of May, 1851.

(Signed) A. O'GRADY LEFROY,
Clerk of the Council.

ANNO VICESIMO PRIMO VICTORIÆ REGINÆ.

No. VII.

AN ORDINANCE to Consolidate and Amend the Laws relating to Trespasses by Live Stock and to Promote the Construction of Fences.

WHEREAS it is expedient to consolidate into one Ordinance and amend all the enactments and provisions respecting the law of trespass by live stock, and to encourage the construction of boundary fences: Be it enacted, by his Excellency the Governor of Western Australia and its dependencies, by and with the advice and consent of the Legislative Council thereof:

Preamble.

I. That from and after the passing of this Ordinance, the following Ordinances, 2nd William IV., No. 2, 1832; 4th William IV., No. 5, 1834; 10th Victoria, No. 13, 1847; and 12th Victoria, No. 6, 1849; shall be and the same hereby are repealed, save and except as to any proceedings pending, and any liabilities incurred, at the time of the passing hereof, under any of the said Ordinances.

Repeal 2, 1832; 5, 1834; 13, 1847; 6, 1849.

II. That it shall be lawful for any person sustaining damage in his house or land, or in any crop, fixture, or chattel therein respectively growing or being, by trespass of any live stock of whatever description, or by dogs or other domesticated animals, to seize and secure the animals so trespassing in any public pound, or if there be none such within three miles of the scene of trespass, then in any private pound or place of security, until satisfaction be made for such damage in manner hereinafter provided:

Landowner's powers and duties—what he may do:—He may pound any animal, dogs, &c. Private place of security if no pound.

AUSTRALIAN COLONIES.

And may claim compensation whether he have pounded or not.

Provided always, that it shall be incumbent on the party so distraining and impounding in any private pound to make forthwith a complaint of such trespass to some Justice of the Peace, and, until order made by such Justice, to treat the animal so distrained with reasonable care, to supply it with food proper for its sustenance, and to protect it from ill-usage: Provided also, that the party sustaining any such damage as aforesaid shall be equally entitled to the compensation herein provided, on complaint to a Justice of the Peace, whether the animal committing the damage shall have been impounded or not.

What he may not do.
But not kill or maim.
If he do either, then compensation and fine.
Value of animal.
Costs, &c.

III. That in order to prevent a practice so injurious to the public interests of this colony as the wilful destruction of live stock and domesticated animals, on account of trespasses, for which a lawful mode of summary compensation is hereby provided, if any person shall, after the passing of this Ordinance, unlawfully and wilfully kill, wound, or maim any animal whatever committing damage in his house or lands (not being any pig, goat, poultry, rabbit, or pigeon), every such person, being convicted thereof before any Justice of the Peace, shall forfeit and pay to the party injured (over and above the value of the animal, if killed, and all the costs and expenses of the whole proceeding, including necessary witnesses, fees of court, and incidental expenses), any such sum of money, not exceeding ten pounds, as to such Justice shall seem meet; and, in default of payment of the entire sum so adjudicated, either forthwith, or within such time as such Justice may allow, the person so convicted shall be committed to the common gaol or house of correction for a period not exceeding three months, with or without hard labour, as to the convicting Justice may seem meet.

Fine £10 maximum.

In default, gaol 3 months.

He may geld bulls, stallions, rams, and liable to no charge. But the claims of either party to compensation not affected thereby.
Nor penalty.
And notice must be given.

IV. That if any entire horse, bull, or ram, above the age of one year, shall be found trespassing on any land, and without a keeper, it shall be lawful for the lawful occupier of such land to castrate such animal forthwith, if the owner thereof be unknown, and three days after notice of such trespass to such owner, if known, such notice being personal, or left at the usual place of residence of such owner; and no compensation shall be given to such owner for any loss which he may sustain thereby: Provided always, that nothing herein contained shall be deemed or taken to interfere with, or in any wise affect, any claim for compensation or any penalty (as hereinafter provided) which may have accrued by reason of the trespass.

He can claim penalties.
Which are distinct from compensation for damage.
Threepence per head large, one penny per head small stock.
And over and above.

V. That if any live stock shall be found trespassing upon any lands, whether any damage shall be proved to have been committed by them or not, the owner of such live stock shall forfeit and pay the sum of threepence for each head of horses or other great stock, and one penny for each head of sheep and other small stock so found trespassing as last aforesaid, upon the information and complaint of the owner or lawful occupier of the land upon which such stock shall have so trespassed, and that such sum or sums of money so imposed as a penalty shall be paid to such owner or occupier, and shall be over and above, and shall in no wise affect any claim that may be made by such owner or occupier for damage done by such stock in such trespass: Provided always, that in every case where great cattle are found trespassing, and not branded with a registered brand, such penalties as aforesaid shall be doubled: Provided also, that the total amount of penalties so imposed shall in no single case of trespass exceed the amount of two pounds: Provided also, that all trespasses committed by the same stock upon the same land, and against the same individual, prior to the date of any complaint or information made under this Ordinance before a Justice of the Peace, shall be deemed and taken to constitute only one offence, and to render the owner of such stock liable for only one such trespass.

Double penalties on unbranded stock.
But in any case two pounds maximum.
One adjudication of penalties clears all of prior date.

No expense for keep beyond one week unless advertised.

VI. That no expense for keep of any live stock impounded for trespass shall be recovered for more than the period of one week, unless the said stock shall have been advertised, with a full description thereof as hereinafter provided, as soon as possible after the same shall have been found so trespassing as aforesaid.

No stock to be sold by J.P., unless advertised.

VII. That no live stock shall be sold by any order of any Justice of the Peace for the default of discovery of the owner thereof unless the same shall have been advertised, with full description thereof, including marks, brand, colour, and height, in two newspapers published in the colony for three successive weeks, nor until seven days after the last of such advertisements.

Cattle-owner—his liabilities, &c.:—If impounder complain to a Justice of the Peace within twenty-four hours.
May be summoned to answer alleged damage.

VIII. That it shall be lawful for any Justice of the Peace in this colony, on complaint upon oath made to him by any person sustaining damage from live stock as aforesaid, to issue his summons for the appearance of the owner (when known) of the animal so trespassing; and on the appearance of the owner, or in his absence, on proof of the service of the summons, either personally or by leaving the same at the usual place of residence of such owner, to examine into the nature and amount of the damage so alleged to have been committed, and to make such order for the payment of the value thereof by the said owner to the party injured (whether the last-mentioned party shall

have been examined or not), together with all reasonable costs of pounding, feeding, constable's fees, witnesses, and other incidental charges as to such Justice shall seem meet, and for that purpose to compel the attendance of all necessary witnesses, and to administer oaths to all parties examined; and in case such order shall not be complied with, it shall be lawful for the Justice making the same, by warrant under his hand, to direct any constable of the said colony, by public sale of the animal trespassing when impounded, and, if needful, by distress and sale of other the goods and chattels of the owner of such animal, to levy and raise the sum awarded by such order, together with all the expenses of sale; and further, that it shall be lawful for such Justice making such order as aforesaid to make at his discretion reasonable deduction from the amount of damages so ascertained on account of any negligence or other misconduct on the part of the person complaining, either by undue delay in making his complaint, or by ill-treatment of the animal impounded.

J.P. has jurisdiction to enter into plaint.

The examination of the real sufferer, who may be distant, is immaterial.

Costs and Court fees.

Distress.

The impounder's ill-treatment or neglect of animal to be considered, and allowed for.

IX. That in all cases in which the animal so trespassing as aforesaid shall be impounded, and the owner thereof shall not be discovered within seven days after the last of the advertisements hereinbefore required by Section VII., it shall be lawful for any Justice of the Peace, on application and complaint on oath of the party injured, to make such examination, order, and sale, as are hereinbefore directed to be made, in case such owner shall be known.

Seven days after third advertisement.

May proceed in absence.

X. That if any person who shall impound any live stock under this Ordinance, as hereinbefore provided, shall not within twenty-four hours after make complaint to some Justice of the Peace of the damage committed by such live stock, it shall be lawful for any Justice of the Peace residing near the place of impounding, on complaint of the owner of such live stock, to summon before him the person impounding the same, and upon appearance of such last-mentioned person (or in his absence, upon proof of the service of such summons either on his person or at his last place of residence) to proceed in such and the like manner to all intents and purposes as any Justice of the Peace is by this Ordinance authorized to proceed, and act on the return of any summons issued on the complaint of the person sustaining damages by the trespass of live stock.

Remedies—cattle owner may complain to J. P. after 24 hours' delay of impounder.

Who can be summoned by J. P.

Who can forthwith examine into the case, as ante, when impounder complains.

XI. That on complaint made to any Justice of the Peace that any live stock have been impounded for a trespass for which no compensation or penalty is recoverable under the provisions of this Ordinance, it shall be lawful for such Justice to summon before him the person so impounding the same, and to summon and examine upon oath all necessary witnesses; and in case it shall appear to such Justice that such stock has been in fact impounded for any such trespass as last aforesaid, it shall be lawful for the said Justice to order the person so impounding such stock to deliver the same to the owner thereof, and to pay to the said owner such damages (not exceeding five pounds) and costs as to such Justice shall seem meet, proper, and just; and in case such order shall not be complied with within such time as such Justice shall thereby limit and express for that purpose, it shall be lawful for such Justice to levy and raise the damages and costs awarded by him by distress and sale of the goods and chattels of the offender, and to direct and authorize any constable or police officer to enforce the release and delivery of the stock impounded, and for that purpose, if necessary, to break open any doors or gates.

His means of releasing stock when illegally pounded.

If impounded when no compensation due (see ante).

J. P. to enquire whether such be the nature of case.

If so, J. P. can order release of such stock, and damages, five pounds the maximum.

J. P.'s order enforced by distress and sale, &c.

Constable may break open doors, &c.

XII. That in all cases of trespass committed by any live stock, the occupier of land in whose charge the said stock shall be at the time of such trespass shall be deemed to be sufficiently the owner of such stock to render him liable for all damages and penalties arising from such trespass.

The occupier of land deemed owner of the cattle.

XIII. That from and after the passing of this Ordinance, the proprietor or tenant of any town or suburban allotment in any part of the colony of Western Australia or its dependencies, shall not be entitled under this Ordinance to recover any compensation whatever for any damage committed by any live stock whatever trespassing on such allotment, or to recover any poundage fees, or other expenses incurred by reason of impounding such live stock, unless the portion of such allotment trespassed on shall, at the time of trespass, be inclosed by a sufficient external fence, as hereinafter defined.

Fencing—no compensation allowed for trespass on town or suburban allotments unless fenced.

XIV. That in every case in which the proprietor or tenant of any town or suburban allotment shall, under the provisions of an Ordinance, No. 4, 4th William IV., 1834, have required the proprietor of any adjoining land or his agent to erect the party or common boundary fences between such their respective adjoining lands, and the proprietor, occupier, or agent, to whom such requisition shall be addressed, shall refuse or neglect to comply with the same, in every such case no compensation whatever shall be recoverable for any damage committed on the said adjoining lands of the proprietor, who or whose agent shall be guilty of such refusal or neglect, by any live stock straying

Proprietor failing to join in erection of fence not entitled to damages.

AUSTRALIAN COLONIES.

from, over, or through the said allotment belonging to the proprietor, or occupied by the tenant making such requisition as aforesaid.

If no fence no extra damages for trespass on cultivated land.

XV. That no more damages or penalties shall be awarded in respect of trespasses committed upon any grain or other crops, in any land, not being a townsite, unless the same shall have been, at the time of such trespass, enclosed by a sufficient fence, as hereinafter defined, than if such trespass had been upon uncultivated land.

Boundary fence to be kept clear by both parties mutually.

Ten feet.

XVI. That it shall be lawful for any lawful occupier of private land, whether within the limits of a townsite or not, having cleared and kept clear his own side of any boundary fence from rubbish, brushwood, fallen trees, blackboys, and other dangerous fuel, to call upon, by notice in writing, the occupier of the adjacent private land, to clear as aforesaid such boundary fence between the said lands to the distance of ten feet from the said fence; and if the person so called upon shall neglect to keep his side of the boundary fence so clear as aforesaid, then it shall be lawful for the said first-mentioned occupier at any time, and from time to time, after the expiration of three days from the date of the service of such notice, to enter on the said lands and to clear such fence as aforesaid, and (in case the expense of such fence shall have been mutually borne by the adjoining proprietors or occupiers) to recover all the costs and reasonable expenses or compensation for so doing from the party so neglecting as aforesaid, as money paid to his use: Provided always, that if such adjacent land be unoccupied, then it shall be lawful for the occupier so having cleared his own side as aforesaid to make such entry and clearing as aforesaid without notice.

Party using boundary fence to pay half.

XVII. That if any person shall heretofore have erected or shall erect a sufficient fence, dividing his land from the land adjoining thereto, and the occupier of the adjoining land shall, after the passing of this Ordinance, in inclosing the same, avail himself of the dividing fence so erected or any part thereof, he shall be liable to pay to the person or persons having for the time being an estate for life, or other greater estate in the land by the owner or tenant whereof the said fence was erected, the half of the then value of so much of the dividing fence as shall be made available as a fence to such adjoining land; and if the person so liable to pay such half value shall not, on demand thereof by the person to whom it shall be payable, forthwith pay the same, the same shall be recoverable in due course of law as for so much money laid out and expended by the plaintiff for the use of the defendant, or otherwise, as the case may be.

Mutual fences to be mutually kept in repair.

XVIII. That whensoever any mutual fence erected as aforesaid shall fall into disrepair, and become insufficient, any occupier of adjoining lands having given notice to the other occupiers of the land divided by such fence may, on their refusal or neglect for a week to contribute to the maintenance thereof, cause the same to be repaired and made a sufficient fence, and shall thereupon be entitled to recover from such adjoining occupiers rateably their proportions of the expense of such repairs, in like manner in due course of law: Provided always, and be it enacted, that no greater sum shall be recovered from any person under this Ordinance in respect of the making or repairing of any fence than the proportionate share of such portion of the actual cost that would be incurred according to the price in the district at the time for erecting and repairing an ordinary three-railed fence of split posts and rails.

Regulation of proportionate shares thereof.

Definition of sufficient fence.

XIX. That the term "sufficient fence" as used in this Ordinance shall be construed to mean, when applied to land beyond the limits of a townsite or of suburban allotments, any fence deemed reasonably sufficient to resist the trespass of great cattle; and when applied to suburban allotments or to land within the limits of a townsite, such fence as may be reasonably deemed sufficient to resist the trespass of great and small stock, including sheep, but not including goats or pigs.

Informations within seven days.

XX. That all informations and proceedings for the recovery of damages or penalties under this Ordinance shall be commenced within seven days after the trespasses thereby respectively complained of shall have been committed; and shall be heard and determined, and such damages and penalties shall be awarded and imposed, in a summary way before any one or more Justice or Justices of the Peace, according to the provisions of an Ordinance 14th Victoria, No. 5, 1850.

Careless herdsmen punishable.

XXI. That if it shall appear to any Justice of the Peace on or after the hearing of any complaint for any trespass, that such trespass was committed in consequence and by reason of the negligence or other culpable conduct of the shepherd, herdsman, or other servant of the person under whose immediate care and charge such live stock were at the time of trespass, it shall be lawful for the said Justice, irrespective of any order he may make or have made for damages or penalties, to mulct the person or servant so guilty of such neglect or other culpable conduct of any portion, not exceeding five pounds, of his wages, whether then due or accruing, or to commit such last mentioned person or servant to any public gaol or house of correction in this Colony, there to be kept to hard

labour for any period not exceeding three months; and the amount of any such mulct may be lawfully retained by the master or employer of the person so mulcted, in or towards satisfaction of any damages or penalty, which such master or employer may have been adjudged to pay by reason of the neglect or other culpable conduct of the person so mulcted.

Surveyors not affected thereby.

XXII. That nothing in this Ordinance shall be construed to interfere with or in any wise affect the Ordinance 14th Victoria, No. 24, 1851.

Appeal against one J. P.

XXIII. That if any person shall find himself aggrieved by any order or conviction made under this Ordinance by any single Justice of the Peace, he may appeal to the next Court of General Quarter Sessions of the Peace, provided that notice of appeal be given in the Court at the time of such order or conviction being made, and that a deposit of ten pounds to answer costs be made, at the same time, and the Court at such Quarter Sessions shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs, to either party, as to them shall seem meet, and in case of the dismissal of the appeal or affirmance of the order or conviction, shall order and adjudge the offender to be punished according to the conviction, or to perform such order and to pay such costs as may be awarded, and shall, if necessary, issue process for enforcing their judgment.

Scale of fees, &c., to be posted up.

XXIV. That the Justices of the Peace for the said Colony in special Session assembled, shall as soon as conveniently may be after the passing of this Ordinance, draw up and settle a list of fees to be paid and allowed in all proceedings to be had under this Ordinance, and shall cause the same to be exposed to public view in some conspicuous part of the court-houses for their respective districts, and that until any such special session be held the list of fees hitherto allowed shall be and continue in force.

Short title.

XXV. That this Ordinance may be cited as "The Cattle Trespass Ordinance, 1857."

(Signed) A. E. KENNEDY,
General and Commander-in-Chief.

Passed the Legislative Council this 22nd day of June, 1857.

HENRY WAKEFORD,
Clerk of the Council.

WESTERN AUSTRALIA.

ANNO VICESIMO QUARTO VICTORIÆ REGINÆ.

No. VIII.

AN ORDINANCE to amend "An Ordinance to consolidate and amend the Laws relating "to Trespasses by live Stock, and to promote the Construction of Fences."

Preamble.

WHEREAS it is expedient to amend the Ordinance of the Legislative Council, No. 7, of 1857, intituled "An Ordinance to consolidate and amend the Laws relating to Trespasses "by live Stock, and to promote the Construction of Fences:" Be it therefore enacted by his Excellency the Governor of Western Australia and its dependencies, by and with the advice and consent of the Legislative Council thereof:

[The first section of this Ordinance was repealed by the 31 Vict., No. 10.—G. F. S.]

Persons in unauthorized occupation of waste Crown land; penalty of one hundred pounds nor less than five pounds.

II. That any and every person not holding a licence, lease, or authority, under the regulations for the sale, letting, disposal and occupation of waste lands of the Crown, who (either by himself, or by his servants, agents, or workmen acting under his directions) shall be found in the unlawful and unauthorized use and occupation of any waste lands of the Crown, either by depasturing stock thereon, or by residing or by erecting any hut or building thereon, or by clearing, enclosing, fencing, or cultivating the same or any part thereof, or by cutting, sawing, felling, splitting, or removing timber and other trees (except sandal wood) thereon being, or by doing, or preparing to do, or having done any act, matter, or thing thereon, which, in the opinion of the convicting Justice or Justices, shall amount to an unlawful and unauthorized use and occupation thereof, he shall on conviction be liable to a penalty of not exceeding one hundred pounds.

See 30 Vict., 6, s. 1.

Proof of lease to lie on the party accused.

III. That the onus of proof of such licence, lease, or authority shall lie on the party accused.

Horse, &c., roaming about in any street, &c., penalty five pounds.

IV. That any person or persons who shall knowingly or carelessly suffer any horse, mare, gelding, foal, bull, cow, heifer, calf, or any pony, mule, or ass, swine, sheep, or goat belonging to him, or in his apparent ownership, or in his charge, to be tethered, or to depasture, feed, or roam about, whether attended by a keeper or not, in or upon any

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street, public thoroughfare, or open public place whatever forming a part of or belonging to any inhabited portion of a townsite, and being the property of any town trust or city council, shall on conviction forfeit and pay for every such offence a sum not exceeding five pounds: Provided that nothing in this section contained shall be construed to apply to any town herd, draught oxen, or cattle which shall be *bonâ fide* driven by a keeper, stockman, or other person straight into, through, or out of any city or town.

Extending limit to one month where Justice resides over thirty miles from place of trespass for recovery of penalties.

V. Whereas it is expedient to amend the law regarding trespassers by live stock on farms and stock runs situate in districts remote from any Justice of the Peace: Be it enacted that in every case in which the land whereon any trespass by live stock may be committed shall be upwards of thirty miles from the residence of any Justice of the Peace, the information and proceedings for the recovery of damages or penalties or both under the Ordinance 21st Victoria, No. 7, of 1857, may be commenced within one month after the trespass thereby respectively complained of shall have been committed; and it shall be lawful for the Justice or Justices on the hearing of such information, whether any damage shall have been proved to have been committed or not, if he or they in their discretion think fit, to award penalties under the fifth section of the said Ordinance, in any single case of trespass not exceeding the amount of five pounds, with such costs and expenses as may meet the justice of the case.

28 Vict., 14.

Ordinances to be read together as one.

VI. That this Ordinance and the said recited Ordinance shall be read and construed together as one Ordinance.

(L.S.) A. E. KENNEDY,
Governor and Commander-in-Chief.

Passed the Legislative Council, this 28th day of November, 1860.
HENRY WAKEFORD,
Clerk of the Council.

WESTERN AUSTRALIA.

ANNO VICESIMO OCTAVO VICTORIÆ REGINÆ.

No. XIV.

AN ORDINANCE to amend "The Cattle Trespass Ordinance, 1857." [11*th July*, 1864.]

Preamble.

WHEREAS it is expedient to amend the Ordinance of the Legislative Council the twenty-first of Victoria, No. 7 of 1857, intituled "An Ordinance to consolidate and amend the "Laws relating to Trespasses by Live Stock, and to promote the construction of Fences;" Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:

Land owner may impound cattle whether committing actual damage or not.
See 24 Vict., s. 1.

1. The power to impound all animals found trespassing, conferred by the second section of the said recited Ordinance, upon any person sustaining damage in his house or land, or in any crop, fixtures, or chattel therein respectively growing or being, shall and may henceforth be exercised by any person aggrieved by any such trespass, without the necessity of proof of actual damage sustained.

19th Sect. of 21st Vict., No. 7, repealed.

2. The nineteenth section of the said recited Ordinance shall be and the same is hereby repealed, and the following section is hereby substituted in lieu thereof:

Interpretation.

The term "sufficient fence" used in the said recited Ordinance and in all other Ordinances referring thereto, shall be construed to mean any substantial fence, reasonably deemed sufficient to resist the trespass of great and small stock, including sheep, but not including goats or pigs.

(L.S.) J. S. HAMPTON,
Governor and Commander-in-Chief.

Passed the Legislative Council this 11th day of July, 1864.
G. E. HAMPTON,
Clerk of the Council.

WESTERN AUSTRALIA.

ANNO VICESIMO OCTAVO VICTORIÆ REGINÆ.

No. XV.

AN ORDINANCE to provide Summary Redress in cases of minor Trespasses.

[11*th July*, 1864.]

Preamble. WHEREAS the unrestricted trespasses of persons passing through, over, and about private land, loitering thereon on pretence of searching for stray cattle, and otherwise, tend to augment the exposure to depredation unavoidably suffered by agriculturists, stock, and sheep owners; and brood mares and other stock are much exposed to injury and worry while such trespasses remain cognizable only in the Superior Court, and it is therefore expedient to give Justices of the Peace jurisdiction in cases of minor trespasses: Be it therefore enacted by His Excellency the Governor of Western Australia, and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:

Trespasses, when no question of title arises, may be determined by two Justices; penalty ten pounds.

1. In all cases of trespass committed on lands, tenements, and hereditaments, where no *bonâ fide* question of title shall arise in the course of the proceedings, it shall be lawful for the party or parties aggrieved to prefer his or their complaint before any two Justices of the Peace, who are hereby required and authorized to hear and determine such complaint, and to award a sum, not exceeding ten pounds and costs, to be paid by the party committing such trespass or trespasses, or to dismiss such complaint with costs, not exceeding fifty shillings, or without costs; and in the event of nonpayment of the sum awarded and costs, or of the costs awarded, either immediately or within such time as the Justices shall appoint, any Justice of the Peace is hereby authorized by warrant to cause the same to be distrained for, or to commit the party or parties convicted of such trespass or trespasses, and omitting or neglecting to pay the amounts awarded, to gaol, there to remain for any space of time not exceeding three months, unless the amount be sooner paid.

Ordinance not to interfere with right of way through customary roads, &c., nor to affect the title of any proprietor in such road, &c.

2. This Ordinance shall not interfere with, or be construed to affect, the rights of any person or persons to pass or repass orderly and quietly through, over, and along any customary track, path, road, or way leading from any customary or declared public road to the several towns, habitations, stations, and other places to which such track, path, road, or way leads, or the rights, powers, or privileges given, granted, or reserved to Her Majesty or Her subjects, in and by any Ordinance, Law, or Deed; Provided nevertheless that nothing herein contained shall be deemed to affect the title or freehold of any proprietor or proprietors in any such track, path, road, or way.

(L.S.) J. S. HAMPTON,
Governor and Commander-in-Chief.

Passed the Legislative Council, this 11th day of July, 1864.

G. E. HAMPTON,
Clerk of the Council.

WESTERN AUSTRALIA.

ANNO TRICESIMO VICTORIÆ REGINÆ.

No. VI.

AN ORDINANCE to amend the Ordinances relating to Trespasses by Live Stock.

[9*th July*, 1866.]

BE IT ENACTED, by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:

Penalty for persons in unauthorized occupation of Crown lands not exceeding one hundred pounds.

1. The words "nor less than five pounds" at the conclusion of the second section of the Ordinance passed in the twenty-fourth year of the reign of Her Majesty, No. 8, of 1860, are hereby repealed.

(L.S.) J. S. HAMPTON,
Governor and Commander-in-Chief.

Passed the Legislative Council this 9th day of July, 1866.

G. S. PASCOE,
Acting Clerk of the Council.

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WESTERN AUSTRALIA.

ANNO TRICESIMO SECUNDO VICTORIÆ REGINÆ.

No. II.

AN ORDINANCE to amend the Laws relating to Trespasses by Live Stock.

[*3rd August*, 1868.]

Preamble. WHEREAS it is inexpedient that any person should have redress for a trespass involuntarily committed by the occupiers of surrounding pastoral lands, unless the party aggrieved has his lands adequately fenced: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:

31st Vict., No. 10 repealed. 1. The Ordinance of the said Legislative Council passed in the thirty-first year of the reign of Her present Majesty, intituled "An Ordinance further to Amend the Laws "relating to Trespasses by Live Stock," is hereby repealed.

Purchaser, tillage or mining lessee of lands within lease, not entitled to damages, &c., unless his land is fenced. 2. No purchaser, tillage, or mining lessee, from the Crown, of land situate within the boundaries of a block or section of leased or licensed Crown land held under a pastoral lease or licence, his heirs, executors, administrators, or assigns shall be entitled under "The Cattle Trespass Ordinance of 1857," or under any other Ordinance or law relating to trespass, to recover any damages, penalty, poundage, fees, and expenses, for or on account of any trespass on such first-mentioned land by live stock, from or against the lessee or other occupier of the surrounding lands held under such pastoral lease or licence, nor shall he or they impound such live stock so trespassing, unless such first-mentioned land, or the part thereof trespassed on, shall, at the time of such trespass, be enclosed by a substantial fence, reasonably deemed sufficient to resist the trespass of great and small stock, including sheep, but not including goats and pigs; Provided nevertheless that such trespass shall not be wilful nor malicious.

Ordinances to be read together. 3. This Ordinance and "The Cattle Trespass Ordinance of 1857," shall be read together as one Ordinance.

(L.S.) J. S. HAMPTON,
Governor and Commander-in-Chief.

Passed the Legislative Council this 3rd day of August, 1868.

G. E. HAMPTON,
Clerk of the Council.

No. 42.

No. 42.

NEW ZEALAND.

Governor SIR G. F. BOWEN, G.C.M.G. to the EARL of KIMBERLEY.

(No. 148.)

Government House, Auckland,
New Zealand, 7th November, 1870.

MY LORD,

Enclosure with 4 sub-enclosures.

Minute by Mr. Gisborne, 2nd Nov., 1870.

I have the honour to report that I lost no time in procuring the information respecting the laws in force as to Trespass and the Preservation of Game, required by the Circular Despatch of the 2nd August ult.; and I now transmit herewith a ministerial Minute covering a memorandum by the Attorney-General, and other documents on the subjects referred to.

I have, &c.,
(Signed) G. F. BOWEN.

The Right Hon. the Earl of Kimberley.
&c. &c. &c.

Enclosure 1 in No. 42.

Enclosure 1 in No. 42.

MEMORANDUM FOR HIS EXCELLENCY.

The circular letter of Lord Kimberley, dated 2nd August, 1870, and requesting information as to the laws in force in the Colonies as to Trespass, and also as to the Preservation of Game, having been referred to the Attorney-General, a copy of the memorandum made by him in reply is enclosed for the information of his Excellency, together with two copies of each of the Acts in force in this colony, referred to by the Attorney-General as bearing upon the subjects.

(Signed) W. GISBORNE,
Col. Secretary.

Wellington, 2nd November, 1870.

Enclosure 2 in No. 42.

THE HONOURABLE THE COLONIAL SECRETARY.

Enclosure 2 in No. 42.

The Acts in force in New Zealand on the subjects—Trespass, and Preservation of Game, are as follows:—

Preservation of Game.—The Acts in force are, "The Protection of Animals Act, 1867," "The Protection of Animals Act Amendment Act, 1868." I do not think that the above enactments require any observations to be made to make them intelligible.

Trespass.—This I understand to be trespass on land by persons. There are no enactments of the General Assembly on the subject except such as are contained in the Malicious Injuries to Property Act, 1867. This Act is almost identical in its provisions with the Imperial Act 24 & 25 Vict., cap. 97, &c. There are no provincial Ordinances on the subject.

(Signed) JAMES PRENDERGAST.

31st October, 1870.

NEW ZEALAND.

ANNO TRICESIMO PRIMO VICTORIÆ REGINÆ.

No. 35.

AN ACT to provide for the Protection of certain Animals and for the Encouragement of Acclimatization Societies in New Zealand. [10*th October*, 1867.] Title.

WHEREAS it is expedient better to provide for the protection of certain animals and birds and the increase arising therefrom and to promote and encourage the efforts of Acclimatization Societies in New Zealand. Preamble.

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The short title of this Act shall be "The Protection of Animals Act 1867." Short Title.

2. "The Protection of Certain Animals Act 1865" and "The Protection of Certain Animals Act Amendment Act 1866" are hereby repealed Provided always that all proclamations orders in Council or other proceedings under the authority of either of the above recited Acts shall be and remain in as full force and effect as if this Act had not been passed until the Governor in Council shall alter vary or annul the same which he is hereby empowered to do. Repeal clause.

3. It shall be lawful for any Acclimatization Society to register its rules by depositing a copy of the same or of any alteration thereof signed by the chairman of such society and countersigned by three of the members thereof in the office of the Colonial Secretary of New Zealand and immediately after such deposit a notification thereof shall be published in the *New Zealand Gazette* and every society so registered shall for the purposes of this Act be deemed to be a duly registered Acclimatization Society. Acclimatization Societies may register their rules.

4. The rules so to be registered shall not be repugnant to this Act or to any of the laws relating to the importation or protection of animals for the time being in force in New Zealand. Rules not to be repugnant to this Act.

5. For the purposes of this Act the property in all animals for the time being in the possession or under the control of any registered Acclimatization Society shall be deemed to be absolutely vested in the chairman of such society. Property to be vested in chairman of society.

6. In case any registered Acclimatization Society shall turn out at large any animals not indigenous for the purpose of increase it shall be the duty of such society forthwith to notify the same in one or more newspaper or newspapers circulating within the district in which such animals shall have been turned at large not less than twice in two successive weeks and it shall be lawful for the Governor in Council by proclamation published in the *New Zealand Gazette* to declare that the property in every such animal so turned at large shall for the purposes of this Act be deemed to be absolutely vested in the chairman of the said society for any period not exceeding two years. Animals turned out to be vested in chairman of society.

7. The several words "animal" and "bird" when used in this Act shall be deemed respectively to comprise the animals and birds mentioned in the several schedules to this Act and any other animals and birds which shall hereafter be proclaimed to come within the operation of this Act. What shall be deemed animals and birds.

8. It shall be lawful for the Governor in Council by order published in the *New Zealand Gazette* from time to time to proclaim that any animal or bird in addition to those mentioned in the several schedules to this Act shall come within the operation of this Act but no indigenous animals or birds shall at any time be deemed to be "game" within the provisions of this Act. Governor may declare that other animals and birds come under operation of this Act.

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What shall be deemed game.

9. The word "game" for the purposes of this Act shall be deemed to include all imported animals and birds mentioned in Schedule IV. to this Act and such other imported animals and birds as shall from time to time be proclaimed to come within the provisions of this Act relating to game and the word "native game" shall be deemed to include all native animals and birds mentioned in Schedule V. to this Act and any other native animals and birds which shall from time to time be proclaimed to come within the provisions of this Act relating to native game.

Governor may proclaim that animals or birds cease to come within provisions of this Act.

10. It shall be lawful for the Governor in Council from time to time by order published in the *New Zealand Gazette* to proclaim that any of the animals or birds mentioned in the several schedules to this Act or which may have been proclaimed to come within the provisions of this Act shall cease to come within the provisions of this Act and that any of the animals or birds declared by this Act to be game or native game or which shall hereafter be proclaimed to be game within the provisions of this Act shall cease to be deemed game or native game within the provisions of this Act.

Time for killing game and native game.

11. No game shall be hunted shot taken or killed in any part of the Colony until the same shall have been proclaimed as open for that purpose by order in Council in that behalf and no game shall be hunted shot taken or killed except during the months of May June or July in any year. No native game shall be hunted shot taken or killed in any part of the Colony except during the months of April May June and July in each year.

Governor may declare that provisions of Act relating to native game shall not be in force, &c.

12. It shall be lawful for the Governor from time to time by proclamation published in the *New Zealand Gazette* to declare that all or any of the provisions of this Act relating to native game shall not be in force in such parts of the Colony as he shall in and by such proclamation define and from time to time as he may think fit by proclamation in like manner to cancel any such proclamation.

Governor may declare district where native game not to be killed.

13. It shall be lawful for the Governor from time to time by proclamation in the *New Zealand Gazette* to declare that in any district therein defined no native indigenous bird named therein not being native game shall be shot taken or killed and any person who shall shoot take or kill any such bird in any district so defined shall be liable to a fine not exceeding twenty shillings.

Imported birds except game not to be killed.

14. No imported bird not being game shall be shot taken or killed in any part of the Colony except as hereinafter mentioned that is to say—it shall be lawful for the Governor in Council by order published in the *New Zealand Gazette* from time to time to declare that such birds or any of them may be shot taken or killed in such part or parts of the Colony as in such proclamation shall be described and if any person shall offend against the provisions of this section he shall be liable to a penalty not exceeding ten pounds and in default of payment to be imprisoned for a period not exceeding one month.

Governor may declare in what part of Colony game may not be killed.

15. It shall be lawful for the Governor in Council by order published in the *New Zealand Gazette* from time to time to declare in which part or parts of the Colony game shall not be hunted shot taken or killed and by such order further to declare the particular species of game which shall not be so hunted shot taken or killed and it shall be lawful for the Governor in Council by order published in the *New Zealand Gazette* from time to time to declare that any description of imported bird is established in any district, and is to be considered as native game.

Shooting, &c., on Sunday prohibited.

16. No person shall hunt shoot take or kill game or native game on Sunday.

Animals and birds not to be trapped.

17. No game shall be poisoned trapped or taken by means of traps nets springes or by any other means than hunting or shooting at any time whatever nor shall any trap net or snare be made erected or set either wholly or in part for the purpose of such trapping or taking except by persons duly authorized pursuant to section twenty-five of this Act.

Game not to be taken or killed without licence under a penalty of twenty pounds.

18. No person shall take kill or pursue or aid or assist in any manner in the taking killing or pursuing by any means whatsover or use any dog gun net or other engine for the purpose of taking killing or pursuing any game until such person shall have taken out a licence to kill game under this Act and paid the duty hereby made payable thereon, and if any person shall offend against the provisions of this section he shall be liable to a penalty not exceeding twenty pounds and in default of payment to be imprisoned for a period not exceeding four months.

Form of licence and license fee.

19. Every licence to take kill or pursue game shall be in the form in Schedule I. to this Act and shall be issued by the Superintendent of the Province in which the person requiring the same shall reside or desire to exercise such licence upon payment of the sum of fifty shillings to the Treasurer of such Province and shall be signed by the Superintendent or Treasurer and dated on the day when the same was actually issued and shall be in force from the day of the date until the thirty-first day of July next following the date thereof and any such licence may be issued at any date subsequent to the thirtieth day of June in any year upon payment of the sum of one pound.

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No person to sell game unless licensed under this Act.

20. No person shall sell game until he shall have taken out a licence which shall be in the form of Schedule III. to this Act and be signed by the Superintendent or Treasurer of the Province and shall be in force for a period ending on the seventh day of August and the person requiring the same shall in respect of every such licence or renewal of licence pay to the Treasurer of the Province in which such licence shall be issued the sum of five pounds and if any person shall sell any game without having duly taken out and having in force such licence as aforesaid he shall for every such act forfeit and pay the sum of twenty pounds and it shall be lawful for the holder of every licence in the form of Schedule I. to this Act to sell game to any person holding a licence to sell game in the form of Schedule III. to this Act without taking out any additional licence to sell game as required in this section.

Superintendent may except certain districts over which licences shall extend.

21. It shall be lawful for the Superintendent of any Province in any licence to kill game issued under the Provisions of this Act to except from the district over which such licence shall extend any lands certified in writing by the chairman of any duly registered Acclimatization Society to be then actually and lawfully used by such society for the purpose of the same and any person hunting or killing or taking any game upon any lands so excepted shall be deemed to be an unlicensed person within the provisions of this Act.

Penalty for destroying eggs.

22. Any person who shall take or wilfully destroy the eggs of any game birds shall be liable to a penalty not exceeding five pounds.

Game kept in confinement may be killed.

23. Nothing in this Act shall prevent the owner of any animal or bird coming within the provisions of this Act except those enumerated in section twenty-nine of this Act from keeping the same in confinement or in a domesticated state or from offering for sale or selling or from killing or taking any such animal or bird so kept in confinement or in a domesticated state and it shall be lawful for any person to buy or offer to buy any such animal or bird.

When animals or birds may be sold.

24. No person shall sell or offer for sale or buy or offer to buy any game or native game except during the months within which it shall be lawful to take or kill game or native game and any person offending against the provisions of this section shall be liable to a penalty not exceeding twenty pounds and in default of payment to be imprisoned for a period not exceeding three months.

Governor may cause animals, &c., to be taken.

25. It shall be lawful for the Governor to authorize any person or persons to catch or take any such animals or birds or the eggs of any such birds for the purpose of distributing changing or turning out the same in some other country or other part of this Colony Provided that nothing herein contained shall be deemed to authorize any person or persons to commit a trespass and provided further that no person or persons shall be deemed to be so authorized to catch or to take or shall catch or take any animals or birds or the eggs of such birds unless he or they can show a licence so to do under the hand of the Governor of New Zealand for the time being and no such licence shall in any case have any force or effect for a longer period than twelve calendar months from the date of such licence.

Persons not to have in possession any such animals or birds.

26. No person shall have in his possession except as hereinafter provided any game or native game except during the months hereinbefore respectively specified without lawful excuse the proof whereof to be on the party charged and such game or native game found in the possession of any person shall be presumed to have been taken or killed by such person contrary to the provisions of this Act until proof to the contrary be given by such person.

Trespasser in pursuit of game liable to penalty.

27. If any person whatever shall at any time commit any trespass by entering or being upon any land in the search or pursuit of game or native game such person shall on conviction thereof before two Justices of the Peace forfeit and pay such sum of money not exceeding twenty pounds as to such Justices shall seem meet Provided always that any person charged with any such trespass shall be at liberty to prove by way of defence any matter which would have been a defence to an action at law for such trespass.

Trespassing with dog or gun.

28. Any person found trespassing with gun or dog and gun shall be deemed to be in pursuit of game and subject to the provisions of this Act.

Certain animals or birds not to be introduced.

29. It shall not be lawful for any person to introduce any fox venomous reptile hawk vulture or other bird of prey into the Colony or to liberate or allow to go at large any fox venomous reptile hawk vulture or other bird of prey which may have already been introduced or to have any fox venomous reptile hawk vulture or other bird of prey not indigenous to the Colony in his possession And every person offending against the provisions of this section shall be liable on conviction thereof before any two Justices of the Peace to a penalty not exceeding one hundred pounds and in default of payment to be imprisoned for a period of not more than six months.

Penalty for selling or buy-

30. Every person who shall within three years from the passing of this Act sell offer

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ing hen pheasant.

for sale or expose for sale any dead hen pheasant shall on conviction forfeit and pay for every such act a sum not exceeding twenty pounds and if such person hold any licence to kill or sell game under this Act such licence shall become on the conviction *ipso facto* void.

Who may demand production of licence.

31. It shall be the duty of every person in pursuit of game to produce his licence to any authorized person demanding such production and the term "authorized person" shall include all magistrates and constables and all rangers appointed under this Act and the proprietors or occupier of the land on which any person may be found in pursuit of game.

Rangers may be appointed.

32. It shall be lawful for the Governor from time to time to appoint one or more fit and proper persons to be and be styled rangers whose duty it shall be to observe and take care that the provisions of this Act be complied with in the province or district for which they may be appointed and to lay informations against such persons as may offend against the same and any such ranger to discharge such duties as the superintendent shall think fit.

Application of fees and fines.

33. All fees for licences fines and penalties arising and which may be received and recovered by virtue of the provisions of this Act shall except as hereinafter provided be applied in the first instance in or towards defraying the salaries and expenses of the ranger or rangers to be appointed as aforesaid and any other expenses of carrying into effect the provisions of this Act and subject thereto the balance if any shall be handed to the treasurer of some acclimatization society if any in the province in which such fees or fines shall have been paid or recovered for the purposes of such society and if there shall be no such society shall be carried to the credit of the revenue of such province.

Penalties how recoverable.

34. All penalties created by this Act shall be recoverable in the manner directed by any Act for the time being in force for the regulation of summary proceedings before Justices of the Peace and any offence against any of the provisions of this Act for which no punishment is herein specially provided shall be punished on conviction before a resident magistrate or Justice of the Peace by a fine not exceeding twenty pounds and one-half of any fine recovered under this Act shall be paid to the person or persons who shall be instrumental in procuring any such conviction in such proportion as the convicting resident magistrate or justice shall specify.

Boys may be whipped.

35. No person under the age of fifteen years who may be convicted under this Act shall be liable to imprisonment anything in this Act to the contrary notwithstanding but may in default of payment of any fine so inflicted be privately whipped if so ordered by the convicting Justice or Justices such whipping to take place in the presence of the convicting magistrate.

Governor may issue licence to officers of Navy.

36. From and after the passing of this Act it shall be lawful for the Governor from time to time to issue without fee to officers serving in vessels in Her Majesty's Navy and stationed in New Zealand licences to kill game in the form of Schedule II. to this Act and in every such licence to limit the time during which and to fix the conditions not being repugnant to or inconsistent with the provisions of this Act whereon such licence shall be held and also to define the district wherein such licence shall operate.

Such licence to have same effect as licence to kill game.

37. Every such licence shall during its currency and subject to such conditions as may be contained therein have the same force and effect within the districts therein defined as any other licence to kill game issued under the provisions of this Act and the holder of such licence shall be subject to the same liabilities and have the same privileges as the holder of any other such licence issued under this Act.

Delegation clause.

38. The Governor may by Order in Council published in the *New Zealand Gazette* from time to time delegate to the Superintendent or Executive of any Province or to any other person or persons within the said Colony all or any of the powers by this Act vested in the Governor or the Governor in Council subject to such regulations as he may think fit and may from time to time rescind such delegation.

SCHEDULE I.—LICENCE TO KILL GAME.

[*Name in full*] of [*residence and description of person licensed*] having this day paid the sum of pursuant to "The Protection of Animals Act 1867" is hereby licensed to kill game within the Province of during the months of May June and July 186 .

Dated at the day of 186 .

Signed

SCHEDULE II.

[*Names in full*] of Her Majesty's [*ship or vessel &c. add name of ship or vessel &c. in which officer is serving*] pursuant to "The Protection of Animals Act 1867" is hereby licensed to kill game within [*here name the Province or District within which the licence is to operate*] from the day of 186 to the day of 186 both days inclusive [*add condition if any*].

Dated at the day of 186 .

SCHEDULE III.—LICENCE TO SELL GAME.

[*Name in full*] of [*residence and description of person licensed*] having this day paid the sum of five pounds (£5) pursuant to "The Protection of Animals Act 1867" is hereby licensed to sell game within the Province of during the months of May June July and August.

Dated at the day of 186 .

SCHEDULE IV.

Pheasants.	Quails.	Hares.
Partridges.	Snipe.	Antelope.
Grouse.	Plover.	Deer.
Black Game.	Swans.	Imported Wild Duck of any species.

SCHEDULE V.

Wild Duck of any species.	Teal
Bittern.	Black Stilt Plover.
Pied Stilt Plover.	Curlew
Wild Geese.	Quail.
Wood Pigeon.	

Enclosure 3 in No. 42.

NEW ZEALAND.

ANNO TRICESIMO SECUNDO VICTORIÆ REGINÆ.

No. LXIX.

ANALYSIS.

Title.
Preamble.
1. Short Title.
2. Amendment in section 11 of "The Protection of Animals Act 1867."
3. Proviso in lieu of section 12.
4. Section 16 repealed.
5. Section 18 amended.
6. Section 25 amended.
7. Section 31 amended.
8. Act to be read with "The Protection of Animals Act 1867.
9. Amendment in Schedule V.
Schedule.

AN ACT to amend "The Protection of Animals Act 1867." [20*th October* 1868.] Title.

WHEREAS it is expedient to amend "The Protection of Animals Act 1867" hereinafter referred to as "the said Act." Preamble.

Be it therefore enacted by the General Assembly of New Zealand and Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be "The Protection of Animals Act Amendment Act 1868." Short title.

2. So much of the eleventh section of the said Act as enacts that no native game shall be hunted shot taken or killed in any part of the Colony except during the months of April May June and July in each year is hereby repealed and in lieu thereof it is enacted that—No native game shall be hunted shot taken or killed in any part of the Colony except during such months as the Governor shall from time to time by proclamation appoint in reference to the respective descriptions of native game within the districts mentioned in any such proclamation and that the Governor may from time to time as he may think fit by proclamation in like manner alter vary or annul any such proclamation. Amendment in section 11 of "The Protection of Animals Act 1867."

3. The twelfth section of the said Act is hereby repealed and in lieu thereof it is enacted that—It shall be lawful for the Governor from time to time by proclamation published in the *New Zealand Gazette* to declare that all or any of the provisions of the said Act or of this Act relating to native game shall be in force in such parts of the Colony only as he shall in and by such proclamation define and from time to time as Proviso in lieu of section 12.

AUSTRALIAN COLONIES.

he may think fit by proclamation in like manner to alter vary or annul any such proclamation.

Section 16 repealed.

4. The sixteenth section of the said Act is hereby repealed.

Section 18 amended.

5. The eighteenth section of the said Act shall be read and taken to be subject to the following provisoes that is to say—Provided always that nothing in the said last-mentioned section contained shall prevent any person in *bonâ fide* occupation of any land not being waste lands of the Crown or some one person appointed by him from pursuing taking or killing game on such land or subject any such person to any penalty for so doing Provided nevertheless that such person or occupier for himself or for such person so appointed by him as aforesaid who shall so pursue take or kill game shall have taken out a licence to kill game under this Act upon such land and every such licence may be in the form in the schedule to this Act and shall be issued by the Superintendent of the province in which the person requiring the same shall reside or in which the land on which he shall desire to exercise such licence shall be situated upon payment of the sum of one shilling to the Treasurer of such province and shall be signed by the Superintendent or Treasurer and dated on the day when the same was actually issued and shall be in force from the day of the date thereof until the 31st day of July then next ensuing but no person shall be entitled to take out more than one licence in any year under the provisions of this section.

Section 25 amended.

6. The twenty-fifth section of the said Act shall be read as follows—It shall be lawful for the Governor to authorize any person or persons to catch or take any such animals or birds or the eggs of any such birds for scientific purposes or for the purpose of distributing changing or turning out such animals or birds or the birds to be produced from any such eggs either in some other part of this Colony or in some other country Provided that nothing herein contained shall be deemed to authorize any person or persons to commit a trespass And provided further that no person or persons shall be deemed to be so authorized to catch or to take or shall catch or take any animals or birds or the eggs of such birds unless he or they can show a licence so to do under the hand of the Governor and no such licence shall in any case have any force or effect for a longer period than twelve calendar months from the date of such licence.

Section 31 amended.

7. In addition to the persons in the thirty-first section of the said Act expressed to be authorized to demand production of the licence of any person in pursuit of game all holders of licences under the said Act or under this Act shall be deemed to be "authorized persons" within the meaning of the thirty-first section of the said Act.

Act to be read with "The Protection of Animals Act, 1867."

8. This Act shall be read with "The Protection of Animals Act 1867" referred to as "the said Act" and the provisions of the said Act for the definition of terms and expressions for the application of fees and fines for the recovery of penalties and for the delegation by the Governor in Council of any powers vested in the Governor or the Governor in Council and all other the provisions of the said Act not hereby repealed shall be construed and taken to apply to this Act in the same manner as if the provisions of this Act were incorporated in and formed part of the said Act.

Amendment in Schedule V.

9. The fifth schedule of the said Act shall be read as if the words "wood pigeon" had been omitted therefrom.

Schedule.

SCHEDULE.

LICENCE TO KILL GAME ON LAND IN THE OCCUPATION OF LICENSEE OR BY WHOM LICENSEE IS APPOINTED.

[*Name in full residence and occupation of licensee*] having this day paid to the Provincial Treasurer the sum of one shilling pursuant to "The Protection of Animals Act 1868" is hereby licensed to kill game on the land in [his occupation] *or* [the occupation of] situate at bounded [*here insert boundaries and description of the land in respect of which the licence is issued*] from the day of until the thirty-first day of July 18 .

(Signed)

No. 43. FALKLAND ISLANDS,
No. 44. HELIGOLAND, } *Not received.*

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BAYERISCHE STAATS-BIBLIOTHEK MUENCHEN

LAWS IN FORCE IN THE COLONIES

AS TO

TRESPASS,

AND ALSO AS TO

PRESERVATION OF GAME.

Presented to both Houses of Parliament by Command of Her Majesty,

MAY, 1871.

LONDON:

PRINTED BY WILLIAM CLOWES & SONS, STAMFORD STREET & CHARING CROSS.

FOR HER MAJESTY'S STATIONERY OFFICE.

1871.

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Laws in force in the Colonies as to Trespass, and also as to Preservation of Game Presented to both Houses of Parliament by Command of Her Majesty, May, 1871

London 1871

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